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successful, well, we might try it for some time more. If it does not prove successful I shall certainly appoint a non-official and allow the Board to languish. It is not a question of my being wedded to a particular idea of bringing an official into it. I want to do some good to this industry.

Well, that seems to be the answer in regard to the various questions put. But in regard to further amendments that may be necessary, I have said before in another connection that I am examining the entire question. Even if the Silk Board Act has to be amended in some measure perhaps as I may have to amend the Coffee Marketing and Control Act and the Rubber Production Act also, we will probably bring forward the amendments together—we will put them together in one Act. I shall then tell the House how we propose to improve the working of the Board, but the matter is under examination. But I thought the present amendment was rather urgent particularly because of the insistence by hon. Members that more attention should be given to this industry by Government—an insistence which I thought had substantial basis on facts. I need not go further into this matter but I do hope that if the House approved of it some good will result out of this to the silk industry.

Shri A. C. Guha: May I know whether the Board has taken any steps in the direction of technical and economic research and for testing and grading the raw silk? Those are the two important functions of the Board.

Shri T. T. Krishnamachari: I have a summary of what the Board has been doing. It made certain recommendations to Government. It has imported some machinery from Japan. A batch of three Indian seri-culturist officers from Madras, Mysore and Bengal were sent to Japan at the suggestion of the Board. Twenty thousand saplings of different varieties of mulberry plant have been imported. They have three technical inspectors affording practical technical assistance and guidance to mulberry and non-mulberry silk-growing States. So far as any research is concerned, I cannot find any evidence in any record that is produced before me, but as I said I am quite willing to concede the matter is entirely unsatisfactory.

Mr. Chairman: The question is:

"That the Bill further to amend

the Central Silk Board Act, 1948, be taken into consideration."

The motion was adopted.

Clause 2. (Amendment of section 4 etc.)

Shri M. S. Gurupadaswamy: I am not moving my amendment.

Shri T. T. Krishnamachari: May I suggest that if the hon. Member, Mr. Gurupadaswamy moves his amendment to make "two" into "three" Members of the House of the People, I would willingly accept it.

Shri M. S. Gurupadaswamy: I beg to move:

In page 1, line 8, for "two persons" substitute "three persons".

Shri T. T. Krishnamachari: I accept the amendment, Sir.

Mr. Chairman: The question is:

In page 1, line 8, for "two persons" substitute "three persons".

The motion was adopted.

Mr. Chairman: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clauses 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Enacting Formula were added to the Bill.

Shri T. T. Krishnamachari: I beg to move:

"That the Bill, as amended, be passed."

Mr. Chairman: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

RESOLUTION RE BERNE CONVENTION FOR PROTECTION OF LITERARY AND ARTISTIC WORKS

The Parliamentary Secretary to the Minister of Education and Natural Resources and Scientific Research (Shri K. D. Malaviya): I beg to move:

"This House approves the Berne Convention for the protection of Literary and Artistic Works, as finally revised at Brussels on the 26th of June, 1948 and signed by

the representatives of the Government of India and of the Governments of certain other countries, and is of the opinion that the said Convention should be ratified by the Government of India."

Mr. Chairman : Resolution moved :

"This House approves the Berne Convention for the protection of Literary and Artistic Works, as finally revised at Brussels on the 26th of June, 1948 and signed by the representatives of the Government of India and of the Governments of certain other countries, and is of the opinion that the said Convention should be ratified by the Government of India."

Sardar Hukam Singh (Kapurthala-Bhatinda): Is he not going to tell us what it is about, Sir?

Shri K. D. Malaviya : This is with regard to the revised Berne Convention passed in June, 1948. The revised Convention widens the scope of the expression "Literary and Artistic Works". As knowledge advances it is felt that the scope of the expression "Literary and Artistic Works" needs expansion and hence the Rome Convention of 1928 was revised in 1948 at Brussels. We were signatories to that 1948 Convention and we are now seeking the approval of the House for the revised Convention. Immediately after this the Government of India will ratify the revised Convention and after that the Copyright Act of 1914 will need amendment. For that we will again come to the House.

Shri A. C. Guha (Santipur) : The note supplied to us by the Department is awfully meagre. We have not been told how many countries have ratified this Convention, how many are signatories to it, and whether the protection of literary and artistic rights conferred by this Convention will be applicable to all countries. At least as regards our neighbouring countries, to whom some of our literary and artistic works can go very easily, we ought to be given some idea as to how our rights will be protected. The Minister should take note of this and ought to provide full information before the House ratifies this Convention.

The Convention itself is welcome. At the same time it should not act in any way as a restriction on the spread of learning and knowledge. I can appreciate the idea of protecting these rights, but it should not be made a capital investment or a vested interest. Even quotations and collections from certain books are prohibited and to that extent it is a restriction on the spread of

knowledge. For instance, an author here may not quote from an author in the U.S.A., England or Germany or may not bring out an anthology. Previously, the U.S.A. was not bound by any such Convention. I want to know the present position. We should have more information before we may agree to this resolution.

Shri K. D. Malaviya : I quite sympathise with my hon. friend. Although the notes supplied may not be very exhaustive they do indicate one thing, viz. that the rights of authors and artists are not restricted in the sense in which the hon. Member means it. The revised Convention not merely has not interfered, but as a matter of fact the policy is to give as much protection as possible to local nationals.

Shri A. C. Guha : For how many years the proprietary rights will continue and whether the inheritors will continue to enjoy those rights—these two points require clarification.

Shri K. D. Malaviya : I speak subject to correction, but the rights will be protected for fifty years.

Shri A. C. Guha : Fifty years during life-time, or after death?

Shri K. D. Malaviya : As far as I remember, after death.

The main object of the revised Convention was to include arts and works which till 1928 had not been included in it or were inadequately mentioned. As I said, after this revised Convention is ratified, the Copyright Act will have to be amended and for that we shall approach the House again.

11 A.M.

Shri A. C. Guha : Who are the signatories to this convention?

Shri K. D. Malaviya : There are about 29 countries who are signatories and many more who watched the proceedings as non-participating nations. I am not quite sure about neighbouring countries, but some of the countries are: Greece, Hungary, Ireland, Italy, Lebanon, Denmark, Canada, Belgium, Austria, Morocco, Switzerland and Yugoslavia.

Mr. Chairman : The question is :

"This House approves the Berne Convention for the protection of Literary and Artistic Works, as finally revised at Brussel on the 26th of June, 1948 and signed by the representatives of the Govern-

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ment of India and of the Governments of certain other countries, and is of the opinion that the said Convention should be ratified by the Government of India."

The motion was adopted.

COMMISSIONS OF INQUIRY BILL

The Minister of Home Affairs and States (Dr. Katju): I beg to move:

"That the Bill to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers, as reported by the Select Committee, be taken into consideration."

I am happy to think that the report of the Select Committee is an almost unanimous one. Hon. Members would have seen by a perusal of the report that the Select Committee has scrutinised almost every single provision of the Bill with the utmost care and has made numerous changes which were unanimously accepted. The object of the Bill as I brought it forward was to meet an obvious inconvenience. Two or three years ago, a Committee was appointed to enquire into certain matters relating to the sugar industry and the Chairman who was a retired Judge of a High Court said that he had not received sufficient cooperation and he had been unable to examine witnesses or call people before him to give relevant information. Thereupon, after a very careful examination of this matter, it was thought desirable that instead of having *ad hoc* legislation in relating to every Inquiry Commission it might be more convenient to introduce some legislation which could be applicable to all Commissions of Inquiry and to authorise the Commissions to examine witnesses and take certain additional steps which invest them with certain powers of a civil court. With that object the Bill was introduced.

It was pointed out in the course of discussion on the motion for consideration before the Bill was sent to the Select Committee that there were enquiries and enquiries and there were committees and committees and it may not be convenient, nor would it be expedient, to vest every single commission and committee of enquiry with the powers which this Bill purports to confer upon those committees and therefore some distinction ought to be made. Now that particular point of view has been given effect to by the Select Committee and the House would now observe that the Bill makes it clear that the Act would only apply to those commissions which are specifically appointed under clause 3 of the Bill and the appropriate Government

which would be either the Central Government or the State Government, will in notification appointing the committee say clearly that this was a commission appointed under clause 3 of this particular Bill and thereupon certain powers which are specified in clause 4 of the Bill would automatically vest in the committee.

"In the Bill as it was originally framed these powers included the power to send for witnesses, to examine them on oath, to send for documents and records from public offices and also to compel people to give information. There was also the power of searching and seizing documents from any premises. A point was made out that while there might be no objection to the power to examine witnesses, the power to compel people to give information and the power to direct searches and seizures was a little more peremptory and, therefore, required further consideration and every committee should not have that power. Now the Select Committee has also given effect to this view and it is clearly provided that while under clause 4 of the Bill the power to summon witnesses and examine them would vest in every committee, the additional powers which are referred to in clause 5 of the Bill, namely, the power to compel people to give information and power to direct searches, would only be available if the appropriate Government, in the notification appointing the committee specifically says that the committee concerned would have also these powers and I am sure that the appropriate Government would see to it that the additional powers mentioned in clause 5 of the Bill would only be granted in appropriate and proper cases, particularly to those commissions, which are presided over by persons of high-status such as retired Judges of the High Court who may be trusted to use those powers in proper cases. Now that is provided for by clause 5 of the Bill.

Then there are certain minor matters. As the House is aware, the power to appoint commissions of enquiry are included in List I, that is the Union List, and List III which is the Concurrent List. In List III power is given both to the Central Government and to the State Governments to make enquiries or direct enquiries to be made by committees in relation to matters exclusively within the cognizance of a State, namely in List II and also to such matters included in List III, the Concurrent List. The result is that the Central Government is empowered to direct an enquiry into practically all kinds of matters anywhere throughout India, while the

MR. DEPUTY CHAIRMAN : The hon. Minister has already replied. If you are asking any question, it is all right, but I am not going to allow you to make any speech.

DR. R. P. DUBE : When the Bill is sent for eliciting public opinion, is it the Bill as a whole which will be considered ? I want a ruling to that effect.

SHRI J. R. KAPOOR : The Bill as a whole or the original Act as a whole ?

DR. R. P. DUBE : The original Act as a whole. You do not allow me to make any speech and so I cannot tell you anything.

MR. DEPUTY CHAIRMAN : The question is :

That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st October 1952.

The motion was adopted.

MR. DEPUTY CHAIRMAN : The Bill will be circulated for opinion.

RESOLUTION RE APPROVAL AND RATIFICATION OF THE BERNE CONVENTION

THE MINISTER FOR LAW* AND MINORITY AFFAIRS (SHRI C. C. BISWAS) : Mr. Deputy Chairman, on behalf of the hon. Minister for Education I beg to move the following Resolution :

This Council approves of the Berne Convention for the protection of Literary and Artistic Works, as finally revised at Brussels on the 28th June, 1948, and signed by the representative of the Government of India and of the Governments of certain other countries, and is of the opinion that the said Convention should be ratified by the Government of India.

SHRI RAJAGOPAL NAIDU : Sir, the hon. Minister is not audible.

SHRI C. C. BISWAS : This is a formal matter. India is a Member-Country of the International Copyright Union and participated in the Berne convention for the protection

of literary and artistic works. The Convention was signed at Berne so far back as 9th September 1886. It was completed at Paris on the 4th May, 1896, revised at Berlin on the 13th November 1908, completed at Berne on the 20th March 1914 and revised at Rome on the 2nd June 1928. It was again revised at Brussels on the 26th June 1948 and India was one of the signatories to the revised convention.

Sir, in terms of the Convention, it has to be ratified by the Member-countries and the instrument of ratification is required to be deposited at Brussels by a specified date. In the case of India, the date was 1st July 1951. For some reason or other we did not get copies of the Convention and the instrument of ratification could not be ratified by that date. But there is provision for ratification at a later date. That is going to be done now. Ratification means that the Member-country which ratifies will have to undertake certain legislation in order to implement the Convention. So, we shall have to amend the Indian Copyright Act of 1914 in order to give effect to some of the provisions of the Convention as revised. The matter therefore will have to be brought before the House when the amendment of the Copyright Act comes up. In the meantime Government think that it will be right to obtain the approval of the House to the ratification. For that purpose I am moving this Resolution. The extracts from the Convention along with extracts of the text of 1928 were circulated to hon. Members some time back and it will be found that in certain respects the text of the original convention has been expanded and enlarged. For instance Cinematographic film has now been included in the definition of literary and artistic work and some other modifications have also been made. There is nothing very exciting about it. This will only involve an amendment of the Indian Copyright Act in order to extend the rights of authors over some additional works. Sir I move.

MR. DEPUTY CHAIRMAN :
Resolution moved :

This Council approves of the Berne Convention for the protection of Literary and Artistic works, as finally revised at Brussels on the 28th June 1948, and signed by the representative of the Government of India and of the Governments of certain other countries, and is of the opinion that the said Convention should be ratified by the Government of India.

PROF. DINKAR (Bihar) :

प्रो० दिनकर (बिहार) : श्रीमन, लेखक होने के नाते मैंने बर्न कन्वेंशन (Berne Convention) के मसविदे को ध्यान से पढ़ा है और मुझे लगता है कि यह मसविदा लेखकों के अधिकारों का मनीफेस्टो (manifesto) है। इसमें कोई शक नहीं कि ब्रुसेल्स कन्वेंशन (Brussels Convention) में जो लोग जुटे होंगे वे उन्नत देशों के नुम इन्दे रहे होंगे। वे ऐसे देशों के नुमाइन्दे रहे होंगे जहां की जनता सुशिक्षित है और जहां कलम के सहारे जीने का काम कुछ बहुत कठोर नहीं समझा जाता। मगर, यह समझने की बात है कि हमारा देश बहुत ही अशिक्षित है और चुकि हमारी जनता अशिक्षित है इसलिये हमारे यहां कलम के सहारे जीने का काम बड़ा ही कठिन होता है। इस देश में कलम घिस कर जो लोग जी रहे हैं वे किसी तरह से अपनी जिन्दगी को खेप रहे हैं। लेखकों की ऐसी हालत पर बर्न कन्वेंशन के प्रतिनिधियों को इष्टि नहीं गई अन्यथा वे अपने निर्णय में ऐसी शर्त भी जरूर रखते जिससे यहां के लेखकों का उपकार हो सकता है। इसलिये, यद्यपि मैं इस मसविदे का पूर्ण रूप से समर्थन करता हूँ मगर सरकार के सामने अपने दो चार सुझाव भी रख देना चाहता हूँ। ये सुझाव मैं इसलिये रखना चाहता हूँ कि जब सरकार इस कन्वेंशन के मसविदे के अनुसार कापी राइट एक्ट (Copyright Act) में तरमीम करने के लिये बिल (Bill) लाये तो बिल लाने के पहले उन मारी सामग्रियों को इकट्ठा कर

ले, जिनकी जानकारी के बिना इस देश के लेखकों और कलाकारों के अधिकारों की रक्षा नहीं की जा सकती।

जहां तक इस मसविदे का सवाल है, मैं सिर्फ तीन चार शर्तों पर सरकार का ध्यान आकर्षित करना चाहता हूँ। आर्टिकल (article) ६ के पहिले पैराग्राफ (paragraph) में जो कुछ लिखा गया है, उस से मालूम होता है कि कन्वेंशन वाले लोग इस चिन्ता में ग्रस्त थे कि लेखक प्रकाशकों के जुल्म से किस तरह बचाये जायें। इसलिये शायद उन्होंने यह शर्त रखी कि :

"Independently of the authors copyright, and even after the transfer of the said copyright, the author shall have the right during his lifetime, to claim authorship of the work and to object to any distortion, mutilation or other alteration thereof, or any other action in modification of the said work which would be prejudicial to his honour or reputation".

श्रीमन, शिक्षित देशों में समाज जागरूक होता है लेकिन अपने यहां अशिक्षा के कारण जनता प्रकाशकों के द्वारा किये जाने वाले जुल्मों को नहीं समझा सकती। जो लेखक अपने कापी राइट को प्रकाशकों के हाथों में बेच चुके हैं और अगर उनकी प्रकाशकों से न पट्टी तो प्रकाशक उनकी किताब छापना बन्द कर देते हैं। इससे तो प्रकाशकों को थोड़ा ही नुकसान होता है, लेकिन गरीब लेखक का गला कट जाता है। इसलिये मेरा ख्याल है कि तरमीम वाले बिल (Bill) में यह शर्त रखी जाय कि जिन लेखकों की किताबें प्रकाशक छापकर बाजारी में न रखें, वे लेखक अपनी किताबें दूसरी जगह छपवा सकते हैं।

इसी तरह से आर्टिकल १० के अन्दर उसके दूसरे पैराग्राफ में जो लिखा हुआ है उसका एक यह भी अर्थ हो सकता है कि अगर कोई शिक्षा संस्था यह चाहे कि वह किसी खाम लेखक की रचना को अपने यहां कोर्स

(course) में निर्धारित करे, तो वह उस लेखक को विवश कर सकती है कि वह अपनी रचना को उस संस्था को दे दे, चाहे वह लेखक भले ही यह चाहता हो कि उसकी रचना, जब तक वह जीवित है, किसी भी शिक्षा-संस्था में न पढ़ाई जाय। इसका एक भावनात्मक कारण है और एक व्यापारिक कारण भी है। बहुत लोगों का ख्याल है कि जिस लेखक की दो-एक रचनायें कोर्स में पढ़ाई जाती हैं, उसकी अन्य रचनाओं की ओर छात्र प्रवृत्त नहीं होते। अक्सर उनकी तृष्णा शान्त हो जाती है। इसलिये जब सरकार बिल (Bill) लावे, तो उसमें एक शर्त डाल दे कि लेखक की इजाजत के बिना उसकी चीजें ले लेना हर हालत में जुर्म समझा जायगा।

दूसरी बात यह है कि इस समय देश में स्थिति ऐसी है कि प्रकाशक लेखकों को पूछते भी नहीं हैं। वे छोटे लेखकों की ही उपेक्षा नहीं करते, बल्कि बड़े बड़े लेखकों की भी उपेक्षा करते हैं। असल में प्रकाशकीय अत्याचारों के शिकार बड़े लेखक भी होते हैं और छोटे लेखक भी। इस विषय को लेकर साहित्य-संसार में एक आन्दोलन सा छिड़ गया है और हर जगह लोग चिन्तित हो रहे हैं कि इस दुरवस्था का खात्मा कैसे किया जाय। लेखकों का पूरी तरह से शोषण हो रहा है और यह शोषण बहुत दिनों से होता चला आ रहा है, जिसका नतीजा यह हुआ है कि लेखक अनेकों प्रकार के कण्ट झेल रहे हैं।

कन्वेन्शन के आर्टिकल ११ के दूसरे पैरा (para) में एक जगह यह कहा गया है कि:

"in any circumstances be prejudicial to the moral right of the author or to his right to obtain just remuneration which, in the absence of agreement shall be fixed by competent authority."

इसका मंशा यह मालूम होता है कि कापी-राइट कानून लेखकों के पक्ष में prejudiced होना चाहिये और जहां रैम्युनरेशन (remuneration) के बारे में रज़ामन्दी नहीं हो, वहां पंचायत का फ़ैसला मान्य होना चाहिये। मेरा सुझाव है कि सरकार जो अगला बिल लावे

उसमें एक शर्त यह जोड़ दे कि पिछले ५० वर्षों के भीतर जो कापीराइट ट्रान्सफर (copy-right transfer) हुए हैं, उनकी शर्तों से अगर लेखकों को असंतोष हो तो ऐसे जीवन लेखक अथवा उनके वारिस अपने हक का मुकदमा अदालत के सामने ले जा सकते हैं। अच्छा हो कि यह बिल लाने के पहिले सरकार इस बात की जांच करवा ले कि प्रकाशकों ने पिछले ३०-४० वर्षों के भीतर लेखकों का किस तरह से शोषण किया है। असल में शोषण के पिछले कारणों का सुधार किये बिना लेखक अपने हक को नहीं पा सकेंगे। कानून में कोई न कोई ऐसी धारा होनी ही चाहिये, जिससे धोखे या छल के द्वारा अथवा नाम मात्र के रैम्युनरेशन पर बिका हुआ कापी-राइट उचित बंधन के साथ लेखकों को वापस मिल जाय।

लोग कहेंगे कि यह मांग अनैतिक है। चूकि जब लेखक एक बार अपना कापीराइट ट्रान्सफर कर चुका है, तो अब उसको इसके लिये मौका नहीं मिलेगा कि अपने कापीराइट को वापिस करे। मैं कहता हूं कि ऐसा कहना ही अनैतिकता है। आप इस बात की पहले जांच कीजिये कि किन हालतों में लेखकों का कापी राइट प्रकाशकों के हाथ में चला गया है। यदि सरकार इसके लिये जांच कमीशन नियुक्त करे तो बहुत ही अच्छी बात है। परन्तु यदि सरकार जांच कमीशन नियुक्त नहीं करे, तो मेरा यह कहना है कि कम से कम सरकार अखबारों में इतना प्रकाशित करवा दे कि जिन लेखकों को अपने कापीराइट के सम्बन्ध में कोई शिकायत हो, वे अपनी कहानी सरकार के पास लिख भेजें, तो मैं समझता हूं कि तब भी इसानियत और ऊंची इन्सानियत के खिलाफ किये गये हैरत-आमेज़ जुर्मों की कहानियों का उसके सामने अम्बार लग जायगा। तब सरकार को मालूम होगा कि जिन किताबों के दस-दस, बारह बारह संस्करण बिके हैं उनका कापीराइट सिर्फ़ सौ-पचास रुपयों में खरीदा गया था। तब सरकार को पता चलेगा

[Prof. Dinkar.]

कि ६०-६०, ७०-७० किताबों के लेखक इस देश में भूखों मर रहे हैं। तब सरकार यह जान पायेगी कि लेखक और पत्रकार होकर जीने का काम इस देश में कितना मुश्किल है और मुसीबत से भरा हुआ है।

हमारे एक हिन्दी के महाकवि हैं, जिन्होंने हिन्दी कविता में इन्कलाब किया, जिन्होंने हिन्दी को नये छन्द और नये भाव दिये, जिन्होंने हिन्दी पर अपने व्यक्तित्व की मुहर लगाई, बल्कि जिन्होंने वर्तमान पीढ़ी पर अपने व्यक्तित्व की छाप लगा दी है वे महाकवि आज रुपये के अभाव में गरीब से गरीब जीवन व्यतीत कर रहे हैं। यहां तक कि उनकी बीमारी में भी उनके पास रुपये नहीं होते।

SHRI R. BISWASROY (Orissa) :

श्री आर० बिश्वासराय (उड़ीसा) : उनका क्या नाम है ?

PROF. DINKAR :

प्रो० दिनकर : मैं समझता हूँ कि जिन्होंने पूछा है, वह उनका नाम जानते हैं। इसी तरह के और भी बहुत से किस्से हैं। जहाँ जाइये, हर शहर में आपको ऐसे लेखक मिलेंगे, जिन्होंने जिन्दगी भर लिखा, लेकिन लिखने का फल नहीं पाया। यह भी नहीं कि उनकी रचनायें बिकी नहीं, बल्कि बहुत से ऐसे लोग हैं, जिनकी रचनायें बाज़ार में आज भी चल रही हैं; मगर अपनी रची हुई पुस्तकों का लाभ उन्हें नहीं मिल रहा है। कारण यह है कि भयानक गरीबी के दबाव में पड़ कर उन्होंने प्रकाशकों के यहां हाथ पसारे और प्रकाशकों ने जो दस-बीस रुपये उन्हें दिये, उन्हीं के बदले उन्हें अपना कापीराइट बेच देना पड़ा। जिस रोज उन्हें अपना कापीराइट बेचना पड़ा, उस रोज शायद बच्चे के इलाज के लिये उन्हें पैसों की जरूरत आ पड़ी थी, शायद उनके घर में खाना नहीं था, शायद मालिक मकान कड़ाई से किराये के लिये तकाजा कर रहा था। गरीबी पेट बांध कर उचित मूल्य

का इन्तज़ार नहीं कर सकती। इसलिये प्रकाशकों की बन आती है और लेखक मारे जाते हैं।

कन्वेंशन के निर्णय के आधार पर सरकार जब नया कापीराइट क़ानून बनायेगी, तब लेखकों के हक़ मारे नहीं जायेंगे। लेकिन उन लेखकों का क्या होगा, जो अपना कापीराइट यों ही गंवा चुके हैं। क़ानून के बन जाने पर अगर लेखक सचाई के कारण धोखा खायेगा, तो यह उसकी जिम्मेवारी होगी, मगर क़ानून की कड़ाई के अभाव में जो लेखक छले जा चुके हैं, उनके उपकार के लिये भी कोई न कोई धारा बनायी जानी चाहिये। मजदूरों और किसानों के हक़ों की हिफ़ाज़त के लिये इस देश में क़ानून बनाये जा रहे हैं, जिनका हक़ छिन गया है, उनका हक़ दिलवाया जा रहा है। मैंने बिहार में देखा कि बहुत से किसानों की ज़मीन ज़मींदारों ने नीलाम करवा ली थी और यह समस्या बढ़ते बढ़ते एक आन्दोलन बन गई। नतीजा यह हुआ कि बिहार सरकार को "बकाश्त रिस्टोरेशन एक्ट" (Bakast Restoration Act) बनाना पड़ा, जिस एक्ट के अनुसार उन सभी किसानों को उनकी ज़मीनें वापस मिल गई हैं, जो ज़मीनें छल करके, धोखा दे करके ज़मींदार के अमलों के द्वारा उनसे छीन ली गई थीं। इसी प्रकार छोटा नागपुर में "ताना भगत" नाम के कुछ आदिवासी हैं। उन्होंने सन् ३० के आन्दोलन में भाग लिया था। परिणामतः उनकी ज़मीन बीसों उपायों से छीन ली गई थी। परन्तु बिहार सरकार ने 'ताना भगत' को ज़मीन वापस दिलाने के लिये क़ानून बनाया और क़ानून बना कर उनकी ज़मीनें उन्हें वापस दिला दीं। तो मेरे रानिवेदन यह है कि ये जो छले हुए लेखक हैं, जो अपने अधिकार से वंचित हो गये हैं, वे भी बिहार के किसानों के समान रक्षणीय हैं और उनके लाभ के लिये भी कापीराइट रोस्टोरेशन एक्ट (Copyright Restoration Act) बनाया जाना ज़रूरी है। नया एक्ट हो या पुराने में सुधार, इससे मुझे अधिक बहस

नहीं है। असल में कानून में कहीं न कहीं यह शर्त डाल दी जानी चाहिये, जिससे असन्तुष्ट या क्षतिग्रस्त लेखक और कलाकार अदालत के सामने मुकदमा ले जा सकें।

[For English translation. *see* Appendix II, Annexure No. 83.]

SHRI RAMA RAO (Madras) : Mr. Deputy Chairman, the Resolution which has been moved by the Law Minister and the speech which he has made give us to hope that at a very early date the Government of India will bring in legislation to amend our copyright law. I am very happy to hear the announcement, because amendment of the Copyright Act is long overdue. Everyone of us, be he author, publisher or journalist, has suffered in this country as a result of the very weak and defective law of copyright we now have. May I point out to the Law Minister that while it is our duty to support the Resolution which he has brought before us, we do so in the hope that this is an earnest of greater things to come for the protection of the rights of honest men who ply their pen not only for the sake of a living, but also for the enlightenment of posterity?

I would stress one or two things which must be borne in mind while we are passing this Resolution. I should like to be corrected if I am wrong. What is the American Law with regard to copyright? I am told, and I think it is true, that I (an author) must get any book of mine separately copyrighted in America also, otherwise there can be any amount of piracy in America and I am helpless. If that is right, if what I am saying is correct, then America must be told that consistently with her "global strategy", she must fall in line with us; for there cannot be two copyright laws in the world. You will remember, Mr. Deputy Chairman, Macaulay's incessant complaints against piracy of his speeches by the Americans. They were stolen and in the process, enormous mistakes were committed. Pandits of Banaras became "pandects" because the publisher knew something about Roman law and nothing about the Pandits of Banaras. In

England the copyright law was discussed at great length years ago, and a speech delivered by Macaulay in the House of Commons is regarded as one of the classic pieces of English oratory, and is also described as one of the two speeches in the history of British eloquence that turned votes in a House where generally votes are not easily turned. Subsequently we adopted, I think in 1914, the British law of copyright. The British law had been just amended and we, as usual, prepared a carbon copy of it in India. But that is not enough today. It is time that literature was made a lucrative profession like law, like medicine, by protecting authors and publishers.

Sir, I would raise another point in this connection. When Rabindranath Tagore's books were the rage in the country and the world, a lot of complaints were made to him by his countrymen that most of his books were not available to them, as they are poor people and Tagore insisted with his publishers that there should be cheaper Indian editions of his works. I do not know whether this Convention which we are being asked to ratify makes any such allowance for the conditions that are obtaining in India. I would insist upon it, because we cannot afford to pay dollars and pounds when we think in terms of a depreciated rupee. I also remember that Bernard Shaw's Collected Works were issued in one volume in this country. I was probably one of the few men who rushed to a Bombay bookshop and collected a copy. Two months after, my brother, who was editing a daily paper at Karachi, wrote to me a frantic letter asking for a copy of Shaw's Collected Works. It was not available. It was out of the market, for the reason that it did not pay the publishers to issue a collected edition at a cheap price. They could sell each copy of his Play for more money than a collected edition could have fetched. I think that a matter of this kind should also be brought up when we amend our Copyright Act.

[Shri Rama Rao.]

There is the question of translations. Translations in my opinion, are as important as original works. If we are going to have a common culture in this country between race and race, sub-nationality and sub-nationality, we have got to understand one another's literature. I remember, Sir, when Tagore's *Geetanjali* came out, many unauthorised translations appeared in the various Indian languages and people asked, what about copyright? Tagore said, 'I do not bother about it.' Let that spirit be enshrined in some of the legislation we are going to put forth. Nevertheless, translations must be protected like all original works, because it is necessary that the translator should be considered an author by himself. It is said that the value of English literature consists not only in its intrinsic merit, but also in its being a gateway to European literature. It thus becomes necessary that we should protect those who undertake to translate books of European or American origin. That must be borne in mind when we undertake amending legislation.

Sir, it is not necessary for me to describe the absolute necessity of enlarging the rights of authors as they are at present because authorship must not only be made to pay, but literature must be made a powerful force in the making of our nation. It has been said that the greatest unifying force of the Hindi-speaking words is Tulsidas. In my own part of the country, the writers of the Andhara Mahabharata have been the greatest unifying force. What are we going to do in future to unify our country through the medium of literature? It is an important question. I put it down in a long Resolution I gave notice of for this session but it has been crowded out. We are worried about copyright for a hundred reasons. I can give you the case of a very distinguished Telugu writer who wrote novels, plays and essays, and edited humorous magazines. I mean Chilakamarthi Lakshmi Narasimham Pantulu. Believe me

Mr. Deputy Chairman, it is a sad tragedy of contemporary Indian literature and a sidelight on the deplorable plight in which authorship is today that he died poor, penniless and almost in disgrace. I will never forgive my Andhra friends for the manner in which they treated that great and distinguished man. He was also one of the men who wrote extraordinarily fine lyrics to inspire his countrymen to the height of great argument and to fight the English out of India.

May I put in a word, Sir, on behalf of the poor journalist? At a conference of the A.I.N.E.C. in Calcutta some years ago I got a Resolution moved that the feature articles of journalist appearing in newspapers must be protected. But will you believe it if I say that the Resolution was overwhelmingly defeated? I asked what the matter was. The answer was simple, and it came mostly from the editors of Indian language papers. They said: "If we do not steal we cannot live." It was a time when I was down and out and I had to make my living by my pen. The Defence of India Rules were there, I could not edit a paper and I had to make a living by writing for the press. Several editors were good enough to accept my articles, but out of every hundred only ten paid me and the remaining 90 did not. When they are going to pay me, I do not know. This is the condition of the Indian journalists who have got to make a living from their writings. I would suggest to the hon. the Law Minister, when he brings in his legislation, to consider another point that I am going to make. It is this: Will it be impossible for the Law Minister to make infringement of copyright a cognizable offence. Copyright deals with property. If you take another man's property, it is regarded as theft; therefore, by parity of reasoning, one should admit that, if copyright is infringed, the criminal must be caught not only by the author but by the police. Bring in that element into legislation which you want to place before us, and it would then be possible for us to protect

ourselves. Take a playwright. He writes a drama and then without his knowing, people put it on boards. The manager of the company who puts it on boards gets all the money. The dramatis personae—I mean the cast—make money, but the author gets nothing out of it. I would suggest that authors should be protected by the police at least in the early stages that is, so long as we do not develop an honest, decent, reasonable national conscience in this matter.

Regarding publishers, I have heard my hon. friend, Mr. Dinkar, who is a distinguished poet, making mention of them. I have also been following the fortunes of that unfortunate tribe of authors, because it is a business of us—editors—to receive all sorts of visitors, most of them poor, miserable authors. "Somebody has stolen my book. Some company has not paid me. Can you do something about it?" Publishers of India—God bless their souls!—most of them are *thugs*, I can tell you the case of a distinguished author whose name I dare not mention in this House : For the first time in his life, he gave a book of his to an Indian publisher. The publisher printed 10,000 copies and gave an account for only 5,000. Sir, it is our duty and responsibility, to make publishing a fine art, as fine as calligraphy was in medieval times. I recall a passage in Moreley's Recollections where he pays a great tribute to the famous MacMillan and Co. The services of Longmans, Bodley Head and MacMillans are as famous as the British Empire. It is our duty therefore soon to amend the Copyright Act in order to make authorship more lucrative and worthwhile. It is an old story how since the days of Homer authors have had to suffer. Still they are suffering. I recollect two lines which my Professor quoted in my class years ago :

"Seven wealthy towns contend for Homer dead through which the living Homer begged his bread."

KAKA SAHEBKALELKAR (Nominated)

काका साहेब कालेलकर (नाम निर्देशित) :

श्रीमन्, कापीराइट एक्ट द्वारा ग्रन्थकारों को

जो रक्षा मिलनी चाहिये वह नहीं मिलती है, यह शिकायत बहुत ही ठीक है। साथ ही साथ यह भी देखना चाहिये कि ग्रन्थ के बारे में तीन व्यक्तियों का सम्बन्ध आता है। एक है लेखक, दूसरा प्रकाशक और तीसरा है पढ़ने वाले पाठक। इन पाठकों का भी एक अधिकार होता है। इसके बारे में कापीराइट

SHRI C. C. BISWAS: On a point of order. We are discussing the question whether we should ratify the Berne Convention. We are not discussing the question of Copyright or what provision has been made in the Copyright laws of the country. But the speeches are directed to that point. Is it quite relevant to the present Resolution to talk about these general things? The question is whether we should ratify the Convention. If we do, then we shall have to introduce legislation for the purpose of giving effect to the recommendations contained in that Convention. That is the only question.

KAKA SAHEB KALELKAR :

काका साहेब कालेलकर : हम यह बर्न कन्वेंशन (Berne Convention) मंजूर करने जा रहे हैं। इसके साथ हम अपना कापीराइट एक्ट (Copyright Act) भी बदलना है। क्योंकि हमारा कापीराइट एक्ट स्वतन्त्र रह नहीं सकता। हम दुनिया के साथ बंधे हुए हैं। इस तरह से बंधे रहना अच्छा ही है।

जब हमें अपना कापीराइट एक्ट बदलना ही है तब हम एक नई बात सोचें। आज तक हम कापीराइट एक्ट के जरिये लेखकों के अधिकार की रक्षा करते आये। ग्रन्थकारों को रक्षा मिलनी ही चाहिये। लेकिन सवाल सिर्फ ग्रन्थकार और प्रकाशक का नहीं। पाठकों का भी ख्याल रखना चाहिये। पाठक किस साहित्य कृति को पसन्द करते हैं? तभी तो साहित्य की कीमत बढ़ती है और प्रकाशक-लेखकों को मुनाफ़ा मिलता है।

[Kaka saheb Kalelkar.]

आज की हालत में लेखक की मृत्यु के बाद उसका कापीराइट पचास वर्ष तक चलता है । इसलिये आम जनता को पचास बरस तक साहित्य सस्ते में नहीं मिल सकता । ग्रंथकार की मृत्यु के बाद उसका अधिकार १५ या २० बरस तक रखा तो बहुत हुआ । कापीराइट एक्ट के कारण जनता को अच्छा साहित्य सस्ते में नहीं मिलता और ज्ञान प्रचार में बाधा आती है ।

अभी अभी बम्बई सरकार ने महाराष्ट्र के संत कवि तुकाराम के ग्रंथ का मुद्रण करके वह पांच रुपये में दे दिया । किताब देखते देखते बिक गई और बम्बई सरकार को एक पाई का भी नुकसान नहीं हुआ । वही किताब प्रकाशक २० या ३० रुपये से कम में नहीं बेचते । हमारे कापीराइट एक्ट में चंद त्रुटियाँ रह गई हैं । बम्बई में अगर कोई ग्रंथकार प्रकाशक के खिलाफ नालिश करने जाये तो उसे हाईकोर्ट (High Court) में जाना पड़ता है । और हाई कोर्ट में तो सोलिसिटर (solicitor) के जरिये ही जाया जाता है । बम्बई के एक उच्च कोर्ट के नाटककार मुझे लिखते हैं कि प्रकाशक और नाटक कम्पनियाँ उन्हें जब रायल्टी (royalty) नहीं देते तब सोलिसिटर का खर्चा नहीं दे सकने के कारण वे नालिश नहीं कर सकते । ऐसी सब कठिनाइयाँ दूर होनी चाहियें । हम अपना कापीराइट सुधार दें और उसके अनुसार दुनिया के कापीराइट एक्ट में भी तबदीली करवा लें ।

[For English translation, see Appendix II, Annexure No. 84.]

DR. S. K. BHUYAN (Assam) : Mr. Deputy Chairman, I rise to say that this Berne Convention should be ratified because the object of this Convention is to give full protection to authors, and it appears to me that of all the people in this earth, the authors have been most exploited. Their brains are sucked by all kinds of people. Not only the authors, but their descendants and grand descen-

dants are exploited as well. You have heard the instance of Homer cited by Shri Rama Rao. Homer, when he lived, had to beg for bread and when he begged for bread, he was given only stone, but when Homer died seven cities claimed to be his birth-place. I am an author and if I have to narrate my own experiences, in this direction, then they will constitute an interesting tale of plagiarisms and exploitation and pilferings from my work. I felt that other people take away stories from our books, and in many cases the sources are never mentioned. In these and many other ways the authors are exploited and the sources are not known to the world. People make money out of the copyright publication, and authors are not sufficiently recompensed. I know also of dramas out of which films have been produced and authors derive proportionately little benefit from them. Therefore, I feel that of all people, the authors are the most exploited.

Unfortunately, authors are a meek and mild people and they have no power in their hands. They simply go on writing just as their creative urge or love or impulse makes them write. They are not out for revenge or vindictiveness, and therefore they cannot stop being exploited. Neither have they the time to seek remedies for the ills they suffer.

I am, therefore, very glad that this Convention has been established in order to give protection to authors and artists. A very comprehensive Resolution embodying all the necessary provisions for giving aid and relief to authors was to have been moved by my hon. friend Shri Rama Rao, but it was crowded out from the present session ; but I hope it will come in during the next session of the Council. I understand that the Act on copyright is going to be amended with a view to adjusting it to the requirements of the Berne Convention. I hope the whole Copyright Act will have to be revised with a view to give protection to the authors not only poets, dramatists, artists

and painters and singers, but all producers of creative and artistic works.

With these few words, I support the motion that this Convention be ratified by this Council and the necessary consequential laws introduced to ensure full implementation to the Berne Convention.

SHRI RAJAGOPAL NAIDU : Sir, I rise to speak lest the Opposition should remain unrepresented in this debate.

SHRI GOVINDA REDDY : We take it for granted.

SHRI RAJAGOPAL NAIDU : I am neither an artist, nor have I any literary talents. But I feel there is one great art which does not find a place in the literary and artistic works that are mentioned here. I carefully went through the Draft Convention and from what is mentioned in paragraph 1 on page 2, I did not find anywhere the art of dancing included in the artistic and literary works. You know, Sir, that our country is very famous.

SHRI C. C. BISWAS : Can dancing be reduced to writing?

SHRI T. V. KAMALASWAMY (Madras) : There are musical compositions.

SHRI C. C. BISWAS : How can dancing be brought under copyright?

SHRI RAJAGOPAL NAIDU : In that case, I am afraid I will take some of hon. Minister's time. Can chorio-graphic works be brought under the definition of literary and artistic works?

SHRI K. B. LALL : Do you mean literature on dancing?

SHRI C. C. BISWAS : The songs can be said to be a matter for copyright.

MR. DEPUTY CHAIRMAN : You may go on.

SHRI RAJAGOPAL NAIDU : Dancing being so famous in our country, I thought it should have been mentioned. It is up to us to take up the matter and see that it is also included.

There is one more thing. I find unimportant things as plastic works, sketches, etc., mentioned. There are many other things, the meaning of which I am unable to know. Can plastic works be termed as literary, and artistic works? I feel that dancing should be mentioned.

This has been agreed to in the year 1948 at Brussels and India was one of the signatories to the Convention. I just want to know what this Government has been doing for the last five years without getting this ratified.

MR. DEPUTY CHAIRMAN : Please address the Chair.

SHRI RAJAGOPAL NAIDU : While addressing the Chair, Sir, I had turned to that side. When I am saying 'Sir', I am addressing the Chair.

I want to know, Sir, what this Government has been doing for the last five years without getting this ratified? It is only that thing that I want to ask.

MR. DEPUTY CHAIRMAN : The hon. Minister for Law.

(*Shri C. C. Biswas stood up.*)

Order, order. She wants to speak.

SHRI C. C. BISWAS : Are you going to speak about dancing?

SHRIMATI SAVITRY NIGAM (Uttar Pradesh) : No, no.

श्रीमती सावित्री निगम (उत्तर प्रदेश) : महोदय, इस समय मैं इस विषय पर कोई स्पीच (speech) देने के लिये नहीं खड़ी हुई हूँ। मेरे यहां पर बोलने का केवलमात्र तात्पर्य यह है कि इस विषय पर बोलने वाले पूर्ववर्ती वक्ताओं जिनमें विशेष रूप से श्री दिनकर जी और काका साहब जी ने जो बातें कही हैं मैं उनका समर्थन

[Shrimati Savitry Nigam.]

करना चाहती हूं। भारत में सचमुच सरस्वती के पुत्रों के साथ इतनी ज्यादती हो रही है जिसका कि कोई ठिकाना नहीं है और उसका वर्णन करना इतने थोड़े समय में सम्भव नहीं है। सरकार को इस समय इस ओर अवश्य ध्यान देना चाहिये और किसी न किसी प्रकार यहां के लेखकों, साहित्यकों और पत्रकारों के अधिकारों की रक्षा करनी चाहिये। प्रकाशकों के लेखकों पर होने वाले अत्याचार इतने बढ़ गये हैं और बहुत जमाने से बढ़े हुए हैं, कि उसकी तुलना हम जमींदारों के द्वारा होने वाले किसानों के अत्याचारों के साथ बड़ी सरलतापूर्वक कर सकते हैं। प्रकाशक लेखकों की तरह तरह के धोखे देकर ठगते रहते हैं। वह लेखकों से कॉपीराइट (copyright) हथियाने के लिये हजारों प्रकार की तिकड़मबाजी करते रहते हैं।

मैं इस विषय में अपनी ही पुस्तक "बृहत्स्थाजली" का हाल बताती हूं। इस पुस्तक के अभी तक १० और १२ एडिशन (edit on) छप चुके हैं। इस पुस्तक द्वारा प्रकाशक हजारों रुपया कमा चुके हैं। इस पुस्तक की २० हजार प्रतियां बिक चुकी हैं और यह पुस्तक केवल १२० रुपये में खरीदी गई थी। प्रकाशकों को जब इसके बारे में पत्र लिखे जाते हैं तो वह किसी भी पत्र का उत्तर ही नहीं देते हैं। इस तरह से हजारों लेखक इन प्रकाशकों के पंजों में फंसे हुए हैं और वे उन्हें तरह तरह से एक्सप्लॉइट (exploit) कर रहे हैं। जब तक लेखकों के अधिकारों की रक्षा न होगी और उनकी जीने की सुविधा न दी जायेगी तब तक वे देश के निर्माण के कार्य में किसी प्रकार का सहयोग कैसे दे सकेंगे। देश के विकास में लेखकों का बहुत बड़ा हाथ होता है। यदि हमने इन साहित्यकारों की रक्षा न की तो हमारे देश के विकास में बहुत बड़ी बाधा पड़ जायेगी। जहां अन्य सब वस्तुओं की आवश्यकता है वहां अच्छे स्वस्थ साहित्य

की भी आवश्यकता होती है। शिक्षा के प्रसार में लेखकों और साहित्यकारों का बहुत बड़ा हाथ होता है।

भारतीय पत्रकारों की भी दशा बहुत ही गिरी हुई है। मैं इस कन्वेंशन (convention) का समर्थन करती हूं और साथ ही साथ सरकार से प्रार्थना करती हूं कि वह शीघ्र ही ऐसा कानून बनाये जिससे कॉपीराइट का हक लेखकों को मिल सके। सभी लेखकों, साहित्यकारों और पत्रकारों की सुविधाओं की रक्षा हो सके, उनको कम से कम इतनी सुविधा तो मिल सके जिससे वे सुविधापूर्वक जीवनयापन करके नये साहित्य का निर्माण कर सकें। वह साहित्य को इस प्रकार से प्रसारित कर सकें कि जिससे वह जनता तक अच्छी तरह से पहुंच सके और जनता उसका अच्छी तरह से लाभ उठा सके।

[For English translation, see Appendix II, Annexure No. 85]

SHRI T. V. KAMALASWAMY : Mr. Deputy Chairman, now that the question of dance has come, I should like to say a few words. Although I am not a dancer myself, I have been the Secretary of a Music Society in Madras which has done very much for the propagation of Carnatic music as well as dancing. Sir, there are things known as dancing dramas which are called *kuravanji* in the South. There is a place called Panthanallur where people come from all over India, from Punjab, from Bengal, and there is one Panthanallur Meenakshisundaram Pillay, who is the greatest exponent of this art. Even Uday Shankar has shifted his headquarters to Madras because he wanted to take part in these dance dramas. When this choriography, i.e., chorus singing, when these things can find a place in this Agreement, I do not think it would be too much to say that dancing should find a place. Sir, these dance dramas, for example the *Sarabhoja Bhoopala Kuravanji* is performed only in the Tanjore temple every year and the copyright is held by the Prince of Tanjore. The dance, movement and everything is picturised in a very beautiful manner.

Sir, Indian dancing has spread all over the world—even in the United States. Uday Shankar, Ram Gopal, Ragini Devi, Menaka and a host of people have gone and tried to popularise the art of Bharata Natyam, Mainpuri, Kathakali, etc. It will therefore be very good if the science of dancing is also included in this Agreement.

MR. DEPUTY CHAIRMAN : You have to wait till the next Convention.

SHRI T. V. KAMALASWAMY : I only wanted to explain this, Sir.

SHRI C. C. BISWAS : I confess I am not a copyright expert and my knowledge of the Indian Copyright Act is also very limited because I have had very few opportunities of taking up any cases either at the Bar or on the Bench dealing with copyright. I thought, Sir, that this was a simple Resolution which I was moving on behalf of the hon. Minister for Education, but it is my misfortune that even if—I touch a simple thing, it becomes complicated.

MR. DEPUTY CHAIRMAN : They are suggestions from hon. Members when you bring in the next amendment to the Copyright Act.

SHRI C. C. BISWAS : If I am asked to take charge of the next Copyright Act, before I come to the House I shall take very good care to prepare myself as thoroughly as I can, because I know what I shall have to face. To be taken by surprise like this as if I was here to be questioned on every point relating copyright, well, I had not bargained for it. Many of my friends here—certainly Mr. Rama Rao knows very much more about it than I can claim to know.

So far as dancing is concerned, I may at once deal with it. Suppose there is a dance by Uday Shankar and if my hon. friends imitate it, will he be guilty of breach of copyright? He will not. So far as copy-

right is concerned, if there was a cinematograph film or a photographic picture, then, of course, that will be very rightly the subject of copyright. How could dancing itself be the subject of copyright, I could not understand. I may be wrong, but commonsense tells me that you cannot have copyright for dancing, gymnastics and things like that. They may be artistic performances, but here we are concerned with artistic productions and artistic publications and not with artistic performances of every kind. And that is all that I can say.

Sir, the object of asking for the approval of the House to the ratification is this. If this is ratified, that means we shall have to promote legislation for the purpose of giving effect to the Convention. Now, in deciding whether Government should ratify the Convention or not, we should have regard to the new points which have been included in this revised Convention. India has been a member country of the International Copyright Union ever since the year 1886 when the first Berne Convention was passed. And every time there has been a Convention, that has been ratified by all the member-countries including India and legislation has had to be undertaken. The last Copyright Act of 1914—I have not verified it—might have embodied the terms of some Convention which had been ratified by India before that year.

Now we are concerned with the Convention which was revised only on the 26th June 1948. The instrument of ratification should have been deposited by us at Brussels before the 1st July 1951. That could not be done, and I need not go into the reasons. Article 28 provides for the deposit of instruments of ratification after the due date. Therefore, the only point with which we are concerned is whether the modifications which have been introduced—and they are all being introduced for the benefit of authors and their representatives—whether they are such that we shall be prepared to undertake legislation in respect thereof. If the House

[Shri C. C. Biswas.]

thinks there are some provisions which are not acceptable to us, then of course we would not ratify the Convention. But if we ratify the Convention, then we accept the liability and the responsibility for giving effect to all these points through legislation.

The papers which were circulated to hon. Members gave a comparative statement of the terms of the last Convention which it is sought to ratify and the terms of the Convention of 1928. That will show in what respects there has been an advance upon the past Convention. You will find now, for the first time I believe, certain works of art included which were not there. Cinematograph works, works produced by a process analogous to cinematograph works, and so on—all these things were not there before. They have now been introduced and consequential amendments have been made in other articles of the Convention.

As regards some of the general questions which were raised, regarding the provisions made in the Convention, you will find that these provisions were there before. The other questions which were raised are also answered here. For instance, as regards works produced in this country, what will be the rights of the authors in respect of copyright so far as member-countries are concerned? It is agreed that the works mentioned here shall enjoy protection in all the countries of the Union. In respect of certain matters which are specified, it will be for each member-country to have domestic legislation about them. The Convention mentions in what respects domestic legislation should be undertaken. But there are certain matters in respect of which general provisions have been made. For example if protection is enjoyed in the country of origin, protection will be given in other member-countries as well. Common laws of copyright in regard to some fundamental matters are accepted for all member-countries of the International Union. But there

are certain matters in respect of which each country is to make its own legislation. If hon. Members want it, I could give some illustrations.

Then for instance my hon. friend was complaining of lifting stories, other writings and books, and so on without acknowledgment, or even putting the dramas on boards without the authority of the writer and so on. A suggestion was made that if there is a breach of copyright, then the person who commits such breach ought to be treated as an offender and the offence should be treated as a cognizable offence. That is a different question. Certainly if there are infringements of the Copyright Act, in that case whether such offences should be treated as cognizable offences, that is a simple matter which does not depend upon the terms of the Convention, nor does ratification of the Convention depend upon that. That is always a matter for us to consider. If such provision is not there that can always be included if it is thought fit and proper. That is a different matter.

I cannot say that I have gone through each of the articles of the Convention as revised very carefully and compared them with the corresponding articles as they stood before this. I have not done that. I have just glanced through it, as I did not expect that I shall have to face so many questions here. But I submit with confidence that this is a Convention which we may ratify with advantage to ourselves. So I move.

MR. DEPUTY CHAIRMAN : The Resolution is:

That this Council approves of the Berne Convention for the protection of Literary and Artistic Works, as finally revised at Brussels on the 28th June 1948, and signed by the representative of the Government of India and of the Governments of certain other countries, and is of the opinion that the said Convention should be ratified by the Government of India.

The Resolution was adopted.

SHRI H. P. SAKSENA : May I know, Sir, the name of the Indian representative in the Convention 1948?

SHRI C. C. BISWAS : The Deputy High Commissioner of India in London Mr. R.S. Mani, I.C.S., represented India at the Conference.

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PRESENTATION OF PETITIONS
ON THE PREVENTIVE DETEN-
TION (SECOND AMENDMENT)
BILL, 1952

SHRI P. C. BHANJ DEO (Orissa): May I crave your kind permission, Sir, for presenting 94 petitions signed

by 740 petitioners regarding the Preventive Detention (Second Amendment) Bill, to the Council?

MR. DEPUTY CHAIRMAN : The hon. Member can hand them over to the Secretary. They will be handed over to the Petition Committee.

The House stands adjourned till 8.15 a.m. tomorrow.

The Council then adjourned till a quarter past eight of the clock on Friday, the 8th August 1952.

**ACTION ON ALLEGED IRREGULARITIES
ON THE HIRAKUD DAM PROJECT**

THE DEPUTY MINISTER FOR IRRIGATION AND POWER (SHRI J. S. L. HATHI): Sir, I lay on the Table a statement showing the progress of action on cases of alleged financial, accounting and other irregularities, including those of a criminal nature, on the Hirakud Dam Project. [Placed in Library. See No. S-366/55.]

THE COPYRIGHT BILL, 1955

THE DEPUTY MINISTER FOR EDUCATION (DR. K. L. SHRIMALI): Sir, I beg leave to introduce a Bill to amend and consolidate the law relating to copyright.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill to amend and consolidate the law relating to copyright." The motion was adopted.

DR. K. L. SHRIMALI: Sir, I introduce the Bill.

**THE CHARTERED ACCOUNTANTS
(AMENDMENT) BILL, 1955**

THE MINISTER FOR REVENUE AND CIVIL EXPENDITURE (SHRI M. C. SHAH): Sir, I beg to move:

"That the Bill further to amend the Chartered Accountants Act, 1949, as passed by the Lok Sabha, be taken into consideration."

Sir, the object of this Bill is very simple. At present, clause (v) of subsection (1) of section 4 of the Chartered Accountants Act, 1949 empowers the Council of the Institute of Chartered Accountants of India to recognise any examination and training completed outside India as equivalent to the examination and training prescribed under the Chartered Accountants Act, 1949, and the regulations thereunder. The Government consider that this power should be concurrently vested in

them also, because of the fact that recognition of foreign qualifications involves consideration of the question of reciprocity in this regard with foreign countries. Section 29 of the Chartered Accountants Act, empowers the Central Government to withhold membership of the Indian Institute from nationals of countries which at present prevent persons of Indian domicile from becoming members of any similar institute there, or from practising the profession of accountancy, or subject them to unfair discrimination in their territories. As will be realised, Sir, recognition of foreign qualifications may well involve negotiations with foreign governments at the Governmental level.

It is, therefore, necessary for the Government to take powers to recognise foreign qualifications in order to facilitate the implementation of the results of such negotiations. I need hardly add, Sir, that no such recognition will be accorded by the Government without due regard to the merits of the foreign qualifications. Government will also consult the Institute, wherever necessary, before exercising this power.

Before this legislative measure was introduced by the Government, we had held consultations with the Institute of Chartered Accountants of India with regard to the provision which was contained in clause 225(1)(b) of the Companies Bill, as reported by the Joint Select Committee. This sought to empower the Central Government to authorise any person with qualifications obtained outside India, similar to those prescribed in the Chartered Accountants Act, to be appointed as an auditor of a company. The Institute agreed that the discretionary authority proposed to be vested in the Central Government, for the limited purpose mentioned in the Companies Bill, should be obtained not from the Companies Bill but by a suitable amendment of the Chartered Accountants Act. This procedure, as pointed out by the Institute, would have the advantage of concentrating all provisions

Sir, on behalf of Shri A. C. Guha, I beg to lay on the Table, under sub-section (2) of section 18 of the Rehabilitation Finance Administration Act, 1948, a copy of the Report of the Rehabilitation Finance Administration for the half-year ended the 30th June 1955. [Placed in Library. See No. S-7/56]

THE COPYRIGHT BILL, 1955

THE DEPUTY MINISTER FOR EDUCATION (DR. K. L. SHRIMALI): Sir, I beg to move—

“That the Bill to amend and consolidate the law relating to copyright be referred to a Joint Committee of the Houses consisting of 45 members; 15 members from this House, namely,—

1. Shri Mohamed Valiulla,
2. Prof. R. D. Sinha Dinkar,
3. Prof. G. Ranga,
4. Shri Nawab Singh Chauhan,
5. Prof. Dr. Raghu Vira,
6. Shri Benarsi Das Chaturvedi,
7. Shrimati Lilavati Munshi,
8. Shri Raghavendrarao,
9. Dr. Raghubir Sinh,
10. Shri Shyam Dhar Misra,
11. Kakasaheb Kalelkar,
12. Shri Abdur Rezzak Khan,
13. Shri N. B. Deshmukh,
14. Shri Rajendra Pratap Sinha, and
15. Dr. K. L. Shrimali as mover, the mover.

and 30 members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply

with such variations and modifications as the Chairman may make;

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee; and

that the Committee shall make a report to this House by the 25th May, 1956.”

MR. CHAIRMAN: The motion as originally put down has 10 Members from this House and 20 Members from the Lok Sabha. You have now altered it to 15 and 30. Will you kindly ask the House to grant the permission for that?

DR. K. L. SHRIMALI: Yes, Sir, I pray that the permission be granted.

MR. CHAIRMAN: Has he the leave of the House to make this alteration?

(No hon. Member dissented.)

MR. CHAIRMAN: So it is 15 Members instead of 10 from this House and 30 Members from the Lok Sabha instead of 20.

DR. K. L. SHRIMALI: Sir, in making this motion I should like to draw the attention of the House to the fact that the time has come when we should modify the Indian Copyright Act. The Indian Copyright Act is only a reproduction of the U.K. Copyright Act of 1911 and it became applicable to India by a Proclamation dated the 31st October 1912. The British Act expressly gave power to the legislatures of British possessions to which the Act extended to modify or add to any of the provisions of the Act

in its application to those possessions. Therefore the Government of India passed the Act known as the Indian Copyright Act, 1914. The Indian Copyright Act did not go very much beyond the British Copyright Act. Only slight modifications were made and the modifications made were very few. Since then there have been great changes in our society and also in the field of technology which necessitate certain changes in this Act.

The U.K. Act does not fit in with the changed constitutional status of India. After independence there is a growing consciousness about the rights and obligations of authors and readers. There have also been certain changes in the means of communications like broadcasting, television, lithophotography, etc. which demand amendments in the existing law.

In drafting this Bill we have consulted the different Ministries and State Governments and the Indian Universities. All their comments have been taken into account in drafting this Bill. Sir, at this stage the House would not like me to go into details with regard to the different clauses and I shall therefore confine my remarks only to the principles which underlie this Bill. As far as the principles underlying copyright are concerned, a very good statement was made by Blackstone in his commentaries in 1767 and I cannot do anything better than quote that statement of Blackstone. While discussing the fundamental principles of copyright, Blackstone says: "When a man by the exertion of his rational powers has produced an original work he seems to have clearly a right to dispose of that identical work as he pleases and any attempt to vary the disposition he had made of it appears to be an invasion of that right. Now, the identity of a literary composition consists entirely in the sentiment and the language. The same conception clothed in the same words must necessarily be the same composition and whatever method be

taken of exhibiting that composition to the ear or eye of another by recital, by writing or by printing, in any number of copies at any period of time, it is always the identical work of the author which is so exhibited and no other man can have the right to exhibit it especially for profit without the author's consent. This consent may perhaps be tacitly given to all mankind when the author offers his work to be published by another hand without any claim or reserve of right and without stamping on it any marks of ownership, it being taken then a present to the public like building a church or bridge or laying out a new highway." This statement contains the main principles which underlie the Copyright Act.

A question is often raised whether the writings of an author or the compositions of a poet or the creations of an artist should be considered as property. Is it correct to define the manifestation of human personality as property? There are different views on this point. There is nothing which can be called property in a better sense than the creation of an individual brain. Property really means what is one's own and nothing more is one's own than the thoughts made out of no material thing. The author only uses the material things for the manifestation of his personality and the best proof of ownership is that if a particular author had not written or an artist had not created a certain work, probably it would not have been done at all; that piece of work would not have existed in the society at all. But recently the whole conception of literary property has been abandoned. Most of the countries do not think of copyright as property; they only consider it as an intellectual right and it is believed that the authors' rights are incorrectly given the name of property. The copyright only gives those who are entitled to it an exclusive privilege of temporary exploitation.

[Dr. K. L. Shrimali.]

As far as the right of the author is concerned to the manuscript or to any copy which he may produce, there can be no dispute. The dispute arises only with regard to the right to multiply copies and the question is whether other people have a right to multiply copies. It is then that the theory of copyright arises and in this matter I think the authors do need protection. There are various kinds of physical means to protect the ordinary property but there is no way to protect the intellectual rights of an author because the very means by which he brings the production to the public endangers his intellectual rights and therefore there is no kind of property which is so dependent on the help of the law as the intellectual work of the author.

SHRI H. P. SAKSENA (Uttar Pradesh): Provided the protection is sought by the author.

DR. K. L. SHRIMALI: I am coming to that.

Another question which has been raised with regard to copyright is whether copyright is an absolute right or it is only relative. Many of the German authors believe that copyright is an absolute right and it can be enforced against all the world. This question, I think, has to be examined carefully. Copyright is based on two things; firstly on the act of intellectual creation and secondly on the results of that act, that is, the product of the mind. Both these things—the act of intellectual creation and the product—must be clearly distinguished. Since the author's personality is expressed in his work, he has the prerogative and he should have the right to dispose of it in any way he likes and he can use any means of bringing it to the notice of the public. And since the work brings certain economic return, since there is an economic aspect, the author should have the right to deal with it for purposes of exploitation. Therefore the law should protect the individual author, the individual creator; whether it is a question of lines or

colours or sounds or works, the law should protect all kinds of collocations. The copyright should cover the speech put on a phonographic record, a dance minutely described in a scenario, a pantomime presented on a motion picture film. Keeping this point in view, clause 12 provides that the author should have the monopoly. It provides that copyright in relation to any work means the exclusive right to produce or reproduce the work or any substantial part thereof in any material form whatsoever. Any person who invades this right, this single monopoly, is an infringer and he should be punished.

The author has a right to the control of the channels through which his work or any fragment of his work reaches the market. We have provided a new clause to safeguard the rights of authors who on account of poverty or other reasons are forced to part with copyright in their works for a meagre amount and are thus deprived of the fruits of their intellectual labour. This is necessary. Due to stringent circumstances—authors, artists and creators very often part with the right of the copyright and assign it to somebody else for the time being. Clause 18 makes special provision that the author can claim the right again under certain conditions which are laid down in the clause.

Provision has also been made that protection should be international. Copyright law should facilitate the free flow of ideas and imaginative creations across national boundaries by giving protection to the author wherever he may be. We should not make any discrimination against foreigners. That is the generally accepted principle; but it should, of course, be on reciprocal basis. And, therefore, clause 42 provides on reciprocal basis for copyright in works published outside India.

So much with regard to the rights of the author. Law should do every-

thing that is possible to protect the rights of the author. But we must remember that the author has also certain obligations and duties towards the community of which he is a member. Keeping in view the indebtedness of the author to the community, it is necessary that certain restrictions should be placed on copyright both with regard to scope and its duration. We should take into account the interests of the wider society to which the author belongs. I do not think there can be any absolute right for anybody in a society like ours and, therefore, there are certain clauses which impose restrictions on the absolute nature of copyright in the interests of society. I should like to come to those limitations. Protection should not go substantially beyond the purposes of protection. Now, what are the purposes of protection? Who is to be benefited by protection? How much? At what expense? These are some of the relevant questions that must be raised when we think of copyright. We must remember that copyright is a monopoly after all and like all monopolies, it also raises certain objections. We must remember that copyright burdens, to some extent, the competitors and the public. The whole purpose of the copyright is to benefit the author and society must do its duty towards the authors, musicians and painters because they are the greatest benefactors of the human race and, therefore, we should do everything that is possible to protect them. But the difficulty is that this very act of protection creates certain difficulties for the public and prevents them from fully enjoying the work of creation because protection makes it more costly. And in this way copyright limits the possibility of that enjoyment by persons of slender purse. Now, very often this monopoly keeps away art pieces and works of great men from the common man. We must, therefore, make the law in such a way that the author is protected; but at the same time we must not impose the burden on the public substantially greater than the

benefit it gives to the author. That ratio, that relationship has always to be considered. Therefore, clause 20 prescribes the general term of copyright which is to be the life of the author and a period of 25 years after his death. Formerly, it was fifty years which we have curtailed.

Then, there is also provision for certain compulsory licences in clause 29. This clause provides for the grant in the public interest of compulsory licences in respect of copyright in works both during the life time and after the death of the author. Now, I think I should read this clause in detail to make the whole position clear:—

"If at any time during the term of copyright in any work which has been published or performed in public, a complaint is made to the Registrar of Copyrights that the owner of copyright in the work—

(a) has refused to republish or allow the republication of the work or has refused to allow the performance in public of the work, and by reason of such refusal the work is withheld from the public; or

(b) has refused to allow communication to the public by radio-diffusion of such work or in the case of a mechanical contrivance, the work reproduced in such contrivance, on terms which the complainant considers reasonable;"

I do not think anybody has a right to withhold information or withhold any work of literature or art from the public and if the society is satisfied that that is being done deliberately, that certain knowledge or invention, or discovery is withheld deliberately from the public, then society should intervene. And, therefore, there is this provision.

Then, again, in clause 30, there is power to issue licences for the making of mechanical contrivances of a

[Dr. K. L. Shrimali.]

work if the demand for such contrivances is not being met by the owner of the copyright to an adequate extent or on reasonable terms. Now, that, again, is in the interests of the society. So, also, clause 33 which says: "a general or special licence for public performance of any literary, dramatic or musical work in which copyright subsists by means of a radio-receiving set or a mechanical contrivance". There is also power to issue a licence to the manager of a library to make or cause to be made one copy of any book in which the copyright subsists. Now, very often the copies are not easily available and research cannot be done without the books and, therefore, we have given power to the library to make a copy of the book for which the copyright subsists. Now, Sir, in discussing these points we have to consider the various persons who are involved in the whole matter of copyright. Of course, there are the conflicting interests of the authors and the readers and we have to bring about a balance between these conflicting interests. But there are two other interests which have to be considered in the copyright and which deserve attention. First of all, there is the author's surviving family. The question has been raised whether there is any justification for the prolongation of the benefit beyond the author's life? After all, the only thing that a society should do is to give benefit to the author, but why should the benefit go to his family? Well, we have made a provision, and rightly, that some benefit should go to the immediate family of the author—widow and children. Authors and artists very often live in 12 Noon poverty and it will be a great pity if their families cannot take advantage of the benefit which was due to the author. At the same time, there are difficulties in giving unlimited rights to the surviving family. They may not be very competent and capable of controlling the monopoly. Under such circum-

stances, the benefit becomes of a very dubious nature and then the tax on the public is less justifiable. But provision has been made for giving immediate benefit to the author's family,—his widow and children—for a certain period.

Another beneficiary in copyright is the publisher. Very often it is found that neither the author nor his family owns the copyright. The copyright is owned by the publisher himself. He may own the copyright free and clear and take all the gross income or he may offer royalties and take most of the gross income. In any case, he gets more benefit if the book has been copyrighted than when it is subjected to open competition. Very often we hear people saying that publishers should be done away with. "Why should an intermediary come between the society and the author?" The view that we have taken is that publishers are necessary and they also need protection. Authors cannot be good publishers. If the authors do not get the benefit of the copyright monopoly, it would be for the authors to find a publisher who can produce the books. Authors and artists would be helpless without publishers. Therefore, the protection of the publisher also is necessary. It gives indirect benefit to the author. It enables him to get royalties or sell the manuscript for a reasonable price. Moreover the publisher should also get a return on his investment. When he invests some capital in producing a book there is no reason why he should not get a proper return. The publisher is a kind of gambler. Sometimes the author may get a return; sometimes he may not. George Bernard Shaw in writing an introduction to Thrings' "On the marketing of literary property" brings out very clearly the difficulties and the disadvantages which both the authors and the publishers have to face. He says in that introduction:—

"Both parties must know their business and be reasonable. One of the author's disadvantages is that he has only one egg in his basket

while the publisher has a score. The publisher's disadvantage is that nineteen out of the score may be bad eggs and at best a good many of them will be indifferent."

There are good sellers; there are poor sellers. Out of a hundred books, sometimes a publisher may get a book on which he can get a good return and then he can compensate. And it has been found by experience that many of the publishers now do take their original output and therefore, copyright is necessary to make good publishers possible.

Zechariah Chafee, Jr. sums up the argument in "World Copyright" by saying that the burden which the monopoly imposes on readers and the publishers should be limited to what will produce three benefits. In the first place, as far as the author is concerned, there should be direct or indirect pecuniary return with an incentive to creation. He should also have control over the marketing of his creation. Then as for the surviving family, they must get a pecuniary return which can save them from destitution and impel the author to create. The family should not, however, abuse a prolonged monopoly. Then for the publisher we must give a continued pecuniary return which will indirectly benefit the author and allow to the publisher an equitable return on his investment, but which may not prevent the public from getting easy access to the creation after the author's death. And, therefore, all these three benefits have been kept in view in drafting this Bill. We have to bring about a balance between the various interests—the interests of the author, of the publisher and of the surviving family and the society.

There are one or two other points which have also been taken into account. We have seen that the protection given to a copyright owner should not stifle the independent creation of the author. I have already drawn attention to clauses 29, 30, 33 and 34. These provisions are such that the authors or the artists cannot withhold

information from the public if it is in the public interest.

Then, we have made a provision in this Bill for the establishment of a Copyright Office and a Copyright Board. I think that it is very important that the law should operate in such a way that it should not create difficulties in the way of the authors or artists. Very often a genuine artist is indifferent to commercial transactions; he is indifferent to money. And a publisher is a man of business; he is insensible to any other consideration except that he should make as much money as possible and, therefore, some kind of agency is necessary which would examine the books carefully and with that view, we have made a provision for the setting up of a Copyright Office and a Copyright Board.

The Copyright Office shall be under the immediate control of the Registrar of Copyrights who shall act under the superintendence and direction of the Central Government and the Copyright Board shall perform certain statutory functions assigned to it in the Bill.

These are the main considerations which have led the Government to amend this law which has been existing for such a long time. In fact, there have been various suggestions by the UNESCO and U. K. itself had appointed a Committee to go into the whole question. In view of the changed circumstances in our country and in view of the growing consciousness among our readers and authors, artists, painters and various kinds of people who are dealing with creative work, it is necessary that we should amend this law. The whole purpose of the Bill is to release the creative energies of the artists and authors and with that view to give all necessary protection and, at the same time, not to give the monopoly in such a way that the wider interests of society may suffer. In fact, as I said, there was nothing like an absolute right for anybody in our society. We have to reconcile the various interests and

[Dr. K. L. Shrimali.]

we have made an attempt to reconcile those interests.

I think that the House will not expect me to go into the details of the clauses because the Bill is being referred to a Joint Select Committee, where we shall have an opportunity to examine the whole Bill very carefully.

Therefore, with these remarks, I move this motion.

MR. CHAIRMAN: Motion moved:

"That the Bill to amend and consolidate the law relating to copyright be referred to a Joint Committee of the Houses consisting of 45 Members; 15 Members from this House, namely:—

1. Shri Mohamed Valiulla.
 2. Prof. R. D. Sinha Dinker,
 3. Prof. G. Ranga,
 4. Shri Nawab Singh Chauhan.
 5. Prof. Dr. Raghu Vira,
 6. Shri Benarsi Das Chaturvedi.
 7. Shrimati Lilavati Munshi,
 8. Shri Raghavendrarao,
 9. Dr. Raghubir Sinh,
 10. Shri Shyam Dhar Misra,
 11. Kakasaheb Kalelkar,
 12. Shri Abdur Rezzak Khan,
 13. Shri N. B. Deshmukh.
 14. Shri Rajendra Pratap Sinha,
 15. Dr. K. L. Shrimali as mover,
- and 30 Members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make;

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed

by the Lok Sabha to the Joint Committee; and

that the Committee shall make a report to this House by the 25th May 1956."

SHRI KISHEN CHAND (Hyderabad): Mr. Chairman, the hon. Minister in a very lucid speech has explained some of the important items in this Bill, but I beg to submit that he has not drawn the attention of the House to one very important factor.

[MR. DEPUTY CHAIRMAN in the Chair.]

You are aware that in all scientific research, there is no copyright, in all medical research there is no copyright. People who devote their entire lives to scientific, medical and engineering research do not get any copyright. They devote their lives to the progress and advancement of science, and they do not get any return. The hon. Minister in his very lucid speech tried to point out that the author had an intellectual right. I submit that he has an intellectual right, but it needs very careful control, guidance and restrictions. This Bill, the way it has been drafted, is a bit too liberal to the authors, and when it is being considered by the Joint Committee, it needs to be modified in such a way that the rights of the authors are controlled to some extent. I do not submit that as in the case of the scientists and research workers, there should be no copyright in their case, but that the copyright should be restricted is a foregone conclusion. I may point out that in the case of property, we do not permit people to charge any rent they like; in the case of any industry, we do not permit the industrialists to make any profit they like. We restrict them. In society, the right of every individual is restricted, and likewise, I would like that the rights of the authors, the rights of the painters, the rights of the artists and the rights of the musicians should be restricted. The question is: Does this Bill go far

enough in the matter of restriction or does it not go far enough? There cannot be anything absolute. It is all relative, and we have got to see what restrictions have been placed in the other sectors of society and whether similar restrictions have been placed in this Bill or not. To my mind, there is over-liberalism in the case of authors, artists, painters and musicians and other producers of original works. The hon. Minister said that in the matter of publication, the publisher takes a risk, that only ten out of hundred books may become popular and may bring profits to the publisher, and he very rightly pointed out that some impecunious authors sell their books at very cheap prices. You know, Sir, that Goldsmith sold all his books at very low rates, because he was always in need of money. His 'Traveller' and 'Deserted Village' fetched him only £10, but they brought hundreds of pounds to the publishers. Sir, in this Bill, I feel that there are not enough restrictions placed on the publisher.

Now, I will come to certain particular items in this Bill. First of all, I do not see any reason why there should be no time limit on the period for which copyright should continue. The limit has been fixed at twenty-five years after the death of the author. It is quite possible that one author may live for a very long time, while another may die soon after the publication of his work. I submit that there should be an outer limit of 30 years in any case. It should be twenty-five years after the death of the author subject to a maximum period of thirty years, because it is quite possible that the author may live for fifty or sixty years after writing his work, and then if you add another twenty-five years after that, it means a period of eighty-five years, while in the other case the author may die a few months after writing his work and then his descendants will get the benefit only for twenty-five years. So, I think that in the interests of society, in the interests of the reading public and also in the

interests of the public which enjoys works of art and music, the copyright period should have a maximum period prescribed to it, and in my humble opinion, that maximum period should be thirty years. As you know very well, during the first edition of a book, it is generally priced very high. There is no control, no restriction, on the price of the first edition. You know that novels of 200 pages in English are brought out in the first edition at £-12/6 or £-9/6. We do not have that amount of publishing in India, and therefore I have to take the example of the U.K. The same books, when they are brought out after copyright are priced £-1/- or £-1/6, and then they reach the large mass of the public. Does this Bill safeguard the rights of the reading public? Does it want that for thirty years the books should continue to sell at £-9/6 and the benefit of the book should be denied to the large mass of the reading public? Therefore, when that matter is being considered by the Joint Committee, I would request the Joint Committee to carefully examine whether we should not control the price of books as we do in the case of newspapers. In the case of the newspapers, we are going to have a price control; similarly, we can introduce a sort of price control in the case of the books. You know, Sir, that text books in our country have been priced heavily. There are certain text books which have been prescribed and their authors get lakhs and lakhs of rupees. You know Chakravarti's Arithmetic had been translated into many languages and thousands and thousands of copies were sold and it brought plenty of money to the author. The price of the book was kept high. My contention is that there should be some regulation of the price of books, and there should be a certain percentage of profits fixed for the author as well as for the publisher, because otherwise, the price of books will become exorbitant and the reading public will not be able to afford them. Similarly in the case of works of art. A

[Shri Kishen Chand.]
 painting after all is just one painting and it can only be in one particular art gallery. How is the general public going to enjoy that work of art? It can be only by reproduction. If no control is placed on the price of the reproductions of works of art, the result will be that human beings will be deprived of the pleasure of seeing a work of art. You know that in foreign countries people go to art galleries and copy the original paintings but of course that can be only after the copyright period is over. That cannot be during the period of the copyright. Some restriction should have been placed in this Bill. There is a clause to that effect, but I do not think that it is sufficiently wide and it needs more extension to control the profiteering motive of the author, so that works of art could be reproduced at cheap rates in the form of postcards and other things, and the general public may be able to enjoy those works of art. In the matter of music and architecture, in our country there is hardly a right but in foreign countries, music plays a very important part and there, in those countries, it is a well-known fact that writers of music charge a very heavy price and a very heavy premium. If those things are going to be copied in our country and if we are not going to place any restriction on it, our countrymen will be deprived of the benefits of those music productions. In the matter of architecture, the definition, I submit, is not very clear. It says:

“architectural work of art” means any building or structure having an artistic character or design, or any model for such building or structure”.

Our country is very rich in architecture and this thing particularly applies to our country. Therefore, I would like that this definition is made more precise, more accurate and defines exactly what copyright occurs in the matter of the design or archi-

ecture and works of art. This loose definition does not cover up all the points.

As I said, I welcome this Bill but I feel that the Select Committee should carefully consider the various items and put restrictions on the rights of authors both about the duration and about the profits that they are going to get.

श्रीमती शारदा भार्गव (राजस्थान): उपाध्यक्ष महोदय, मैं इस विधेयक का स्वागत करती हूँ यह कहना चाहती हूँ कि जब मैंने इस विधेयक को पढ़ा तो मुझे ऐसा मालूम हुआ कि इसमें काफी संशोधनों की आवश्यकता है। पहला बुलेटिन मेरे पास आया था कि आज ही इसको पास करना है और इसलिए मैंने इसमें कुछ संशोधन भेजने का प्रयत्न किया था। पर मुझे बड़ी प्रसन्नता है कि यह सेलेक्ट कमेटी को जा रहा है। और सेलेक्ट कमेटी इसमें संशोधन करके इसके दोषों को सही कर दंगी। कुछ संशोधन शायद मैं सेलेक्ट कमेटी को भी दे सकूंगी, पर कुछ खास बातें मैं यहाँ कह देना चाहती हूँ ताकि सेलेक्ट कमेटी उन पर विचार कर ले।

पहली बात यह है कि धारा १० में कापीराइट बोर्ड बनाने की जो विधि दी है उसमें म्ब्रों की जो क्वालिफिकेशन लिखी है, उसके बारे में एक संशोधन करना चाहती हूँ। धारा १० की उपधारा (बी) में लिखा है कि :

“Three other members, of whom two shall be persons who have special knowledge of literature or art or who have had experience of the cinematograph industry or any industry manufacturing mechanical contrivances.”

इस सम्बन्ध में मैं यह कहना चाहती हूँ कि पहले तो तीन सदस्यों में से दो की ही क्वालिफिकेशन दी गई है और तीसरे के बारे

में कुछ नहीं कहा गया है कि वह किस प्रकार का व्यक्ति होगा। इसके अलावा मैं चाहती थी कि इसमें दो व्यक्ति वह होने चाहियें थे जो आथर और पब्लिशर के रिप्रेजेंटेटिव हों। इस प्रकार का एक संशोधन मैं चाहती थी कि इसमें दो मेम्बर बढ़ा दिये जायें, ताकि कापीराइट बिल में आथर और पब्लिशर, ये जो दो खास व्यक्ति हैं, इनको भी फायदा हो और वे भी अपनी बात कह सकें। इसलिए मेरा सुझाव है कि बोर्ड में इन दोनों व्यक्तियों को भी बढ़ा देना चाहिए।

धारा १८ के बारे में भी मुझे कुछ कहना है। मुझे बड़ी प्रसन्नता है कि सरकार ने जो यह बिल रखा है, इसमें यह ध्यान रखा गया है कि लेखक को बहुत कुछ फायदा हो और उसको जो नुकसान होता है वह दूर हो जाय। यह बड़ी प्रशंसा की बात है कि लेखकों की बहबूदी के लिए हमारी सरकार सोच रही है, लेकिन मेरा खयाल यह है कि लेखक की तो जरूर इसमें बहबूदी होगी, परन्तु साथ ही जो साहित्य समाज में आता है, उसमें थोड़ा नुकसान हो जाने का डर है। कारण यह है कि धारा १८ की चौथी लाइन में कहा गया है :

"To him by the assignee at any time not earlier than seven years and not later than ten years."

इसके माने यह है कि कोई भी लेखक जिसने किसी पब्लिशर को अपनी कृति का कापीराइट दे दिया है, वह ७ वर्ष बाद उस कापीराइट को वापस लेकर अपनी कृति को ले सकता है। मुझे पब्लिशर्स के बारे में थोड़ा ज्ञान है, इस लिए मैं कह देना चाहती हूँ कि पब्लिशर्स बहुत सारी पुस्तकें पब्लिश करते हैं और बहुत सारा रिस्क लेते हैं। और यह भी मुझे मालूम है कि उन पुस्तकों में १० या २० प्रतिशत ऐसी पुस्तकें होती हैं, जिनमें सचमुच में उनको फायदा होता है और बहुत

सी पुस्तकों में उनको नुकसान भी उठाना पड़ता है। इसके माने यह है कि रिस्क लेकर ही किताबों से फायदा उठाते हैं। लेखक को तो सन्देह रहता है कि मेरी किताब पब्लिश होगी तो पैसा मिल सकेगा या नहीं, इसलिए वह रिस्क स्वयं न उठाकर पब्लिशर को उसे दे देता है। पर, मान लीजिए कि लेखक की पुस्तक ऐसी है जो सबसे ज्यादा फायदा देने वाली है या सबसे ज्यादा पढ़ी जाने वाली है, तो सात वर्ष बाद वह लेखक सोचेगा कि क्यों न मैं इसको वापस ले लूँ ताकि पब्लिशर जो फायदा ले रहे हैं, वह मैं उठा लूँ। इसका नतीजा यह होगा कि पब्लिशर, जिसका सचमुच में उस पुस्तक की वजह से दूसरी किताबों के नुकसान के बदले में फायदा आता है और वह उस नुकसान को सह सकता है, तो फिर उस किताब को वापस देने के बाद जो नुकसान उसको होगा उसके लिए वह क्या करेगा? या तो दूसरी तरफ से फायदा उठाने का वह प्रयत्न करेगा या दूसरी पुस्तकों का मूल्य बढ़ा देगा। दूसरी पुस्तकों का मूल्य बढ़ा देने से समाज की हानि होगी। मैं इस बात से सहमत हूँ कि लेखकों को, क्योंकि उनकी कृतियाँ होती हैं, जो कि उनके मस्तिष्क की उपज होती हैं, फायदा पहुँचाया जाय और ऐसे गरीब लेखकों को जो गरीबी की वजह से थोड़े दाम में अपनी कृति को बेच देते हैं, बचाने की बहुत आवश्यकता है। परन्तु साथ ही साथ अगर सात वर्ष की सीमा हम रख देंगे तो लेखक शायद हमेशा यह सोचेगा कि क्योंकि उसकी पुस्तक से फायदा होने वाला है, इसलिए मैं उसको वापस ले लूँ। इसलिए मेरा कहना है कि सात वर्ष की अवधि को बढ़ा कर ज्यादा कर दिया जाय या फिर दूसरी चीज यह कर दी जाय कि जब कापीराइट वापस करने का मामला कापीराइट बोर्ड के पास जाय, तो उस समय लेखक से यह भी कहा जाय कि जो कुछ उस से नुकसान होने वाला है उसका भी बदला चुकाये तो वह कापीराइट वापस ले सकता है अन्यथा नहीं। हमको लेखक के बारे में सोचना जरूरी है परन्तु लेखक से भी ज्यादा

[श्रीमती शारदा भार्गव]

समाज के लिए सांचना आवश्यक हैं। कोई भी विधेयक या कोई भी प्रस्ताव जब हम स्वीकार करते हैं तो यह दर्खत है कि समाज में उससे क्या नुकसान या हानि होने वाली है। व्यक्ति को, वह पब्लिशर हो या लेखक हो, नहीं सोचना है पर समाज के बारे में अवश्य सोचना है। इसलिए मेरा कहना है कि जिस प्रकार यह धारा बनाई गई है उसमें लेखक का पूरा खयाल रखते हुए भी जब तक परिवर्तन नहीं किया जायगा, समाज को नुकसान होने का डर है। इससे अधिक इसमें कुछ कहने की बात नहीं है। यदि आवश्यक हुआ तो मैं अपने सुभाव सेलेक्ट कमेटी में लिखकर भेज दूंगी।

आगे मुझे धारा ३१ के बारे में कुछ कहना है। पैज ३२ पर धारा ३१ की उपधारा (३) दी हुई है जिसमें लिखा है (यह ट्रांसलेशन के बारे में है):

"Every applicant for a licence under this section shall along with his application deposit with the Registrar of Copyrights an amount equal to not less than ten per cent. of the proposed retail selling price of one thousand copies of the translation of the work or one thousand rupees, whichever is greater."

यहां पर मुझे यह कहना है कि इससे तो मैं सहमत हूँ कि उससे १० प्रतिशत रुपया ले लिया जाय, परन्तु जहां १,००० रु० जमा करने की बात कही गई है, ऐसा भी हो सकता है कि कुछ पुस्तकें एक, एक रुपये वाली हों और अगर एक हजार पुस्तकों के मूल्य का १० प्रतिशत लेना है, तो उस हिसाब से १०० प्रतिशत देना पड़ जाता है। इस प्रकार उसे एक हजार रुपये डिपॉजिट कराने में बहुत कठिनाई होगी जब कि पुस्तक का मूल्य बहुत कम है। चूंकि यह पुस्तक समाज के लिए उपयोगी है इसलिए उसका ट्रांसलेशन तो किया जायगा मगर इस प्रकार का नुकसान उठाकर या १०० प्रतिशत देकर कोई व्यक्ति ट्रांसलेशन करने में

असमर्थ होगा। इसलिए इस रकम को ५०० रु० या २५० रु० कर दिया जाय या फिर सिर्फ "टैन पर सेन्ट आफ दी प्रोपोज्ड रीटल सेलिंग प्राइस" ही रहने दिया जाय क्योंकि कभी कभी जो टैन पर सेन्ट आफ दी प्रोपोज्ड सेलिंग प्राइस होगा वह १,००० से बहुत कम भी हो सकता है। ऐसी हालत में एक हजार रुपये देना पब्लिशर के लिए बहुत दिक्कत का काम होगा।

इसी धारा की उपधारा (५) के (ए) में कहा गया है कि :

"A translation of the work in such language has not been published by the owner of the copyright in the work or any person authorised by him, within seven years of the first publication of the work, or if a translation has been so published, it has been out of print."

इसमें 'आऊट आफ प्रिन्ट' के बारे में कोई समय की सीमा नहीं दी गई है। इसके माने यह है कि अगर कोई किताब ६ महीने से आऊट आफ प्रिन्ट होगी तो आप दूसरों को कापीराइट दे सकते हैं। इसीलिए मेरा सुभाव है कि इसमें आऊट आफ प्रिन्ट के आगे पीरियड दे दिया जाय। मैं यह सुभाव देती हूँ कि दो वर्ष का समय इसमें दे दिया जायगा तो समय और सीमा बनने के बाद हर एक को मालूम होगा कि हमें इस टाइम के अंदर इसको आऊट कर देना है, अन्यथा कोई टाइम लिमिट न रहने से दो महीने भी आऊट आफ प्रिन्ट रहने से लाइसेंस खत्म किया जा सकता है और ४ वर्ष तक भी वह वैसे ही पड़ा रहे तो भी उस पर कोई जोर नहीं जमाया जा सकता। इसलिए इसमें समय की सीमा देना बहुत आवश्यक है।

धारा ५२ की उपधारा २ में, पैज नम्बर २६ में यह लिखा है कि :

"Notwithstanding anything contained in the General Clauses Act, 1897 where any person immediately before the commencement of this

Act is entitled to copyright in any work or to any interest in such right, he shall, as from the date of such commencement, be entitled."

इस धारा की तीसरी लाइन में जो "कापीराइट" का शब्द लिखा है, वहाँ पर थोड़ा सा इसमें यह जोड़ देने की आवश्यकता है कि: "आइदर होलली आर पारशली" क्योंकि कापीराइट के माने तो ट्रांसलेशन भी होता है, फिल्म प्रोड्यूसिंग भी होता है, सब कुछ होता है। इस लिए अगर आप ये शब्द "आइदर होलली आर पारशली" जोड़ दते हैं तो उसके माने यह हो जाते हैं कि जो ट्रांसलेशन या इसी प्रकार का कार्य है, उस पर बुरा असर न पड़े। इस लिए मैं चाहती हूँ ये शब्द इस धारा में एंड कर दिये जायें। ट्रांसलेशन की धारा में भी काफी परिवर्तन होने की आवश्यकता है क्योंकि यह धारा पब्लिशर और आथर दोनों के ही लिए कोई लाभप्रद नहीं मालूम पड़ती है। इसलिए इस धारा में जो संशोधन है उन को मैं मंत्री महोदय को दूँ दूँगी और उसमें जिस प्रकार सेलेक्ट कमेटी उचित समझे उस प्रकार उसमें संशोधन करके सही कर दूँ।

इस बिल के सम्बन्ध में अधिक बोलना आवश्यक नहीं है क्योंकि अभी यह बिल सेलेक्ट कमेटी में जा रहा है। मेरे जो सुझाव हैं, आशा है, सेलेक्ट कमेटी उन पर विचार करेगी और उनको स्वीकार कर लेगी।

SHRI M. GOVINDA REDDY (Mysore): Mr. Deputy Chairman, I have very great pleasure in supporting this Bill, which in my opinion, has come none too early. The law relating to copyright is now regulated by the Indian Copyright Act of 1914. This Act itself was based on the U.K. Copyright Act which is 40 years older. As the hon. Minister pointed out in his very lucid speech, copyright is something which affects the living of so many people of genius, people with creative abilities in them, and this is a matter which has been treat-

ed rather indifferently by our Government in the past. So it should have been well attended to by our Government at least after the attainment of independence. Apart from the general importance that this subject should have attracted, there are certain anomalies which have arisen on account of the change in the political status of our country. In the U.K. Act and in the corresponding Indian Copyright Act of 1914 there are words and phrases which are inconsistent with our present political Republican status. I may point out some of the anomalies which still exist on account of our having based our Act on the U.K. Act. We have words like "His Majesty's Dominions and Provinces", "Judicial Committee of Council", "The Crown", "His Majesty" and so on in the Indian Copyright Act of 1914. Such words and phrases occur in the Copyright Act of the United Kingdom and they were necessarily copied by the Indian Act of 1914; and even after our attaining independence, these phrases which were anomalous have been continued without any thought being devoted to correcting them in this Act. There is in to-day's morning paper another curious parallel instance of such an anomaly that occurred in a court of law where a man who had to give something like an undertaking finds in the printed form that he has to undertake or is bound by his Majesty's instructions to do such and such a thing, something which is entirely anomalous under the independent status of the country. These show that these anomalies have to be attended to. I am, therefore, glad that at least after these seven years, the Government have come out with an amending Bill. There were also other disadvantages flowing from our not ratifying, changing or replacing the Indian Copyright Act of 1914; and these relate to our relations with other countries of the world, our international relations in the matter of copyrights and we were unable to ratify the Berne Copyright Convention which was revised at Brussels and the Universal Copyright Conven-

[Shri M. Govinda Reddy.]

tion also was not ratified by us. I am glad that at last, all these anomalies will be corrected by this measure.

I consider this measure as a very well devised and a very well drafted measure. My hon. friend Mr. Kishen Chand in his speech was saying that the Government in this draft Bill have been over-solicitous for the rights of authors. At the same time, he was detailing the various disadvantages to which the author or the artist was subjected in the old days. Sir, it is a known fact that genius always lives or is always born in people who have not got financial strength. Genius is found always in the poor man and these poor men were never in a position to benefit by the works of their genius.

SHRI KISHEN CHAND: Lord Byron was not poor. Shelley was not poor.

SHRI M. GOVINDA REDDY: There may be exceptions here and there. But where there were million others, there was only one Byron or one Shelley. There were men like Charles Lamb too who were slaving for days on end just to eke out a hand-to-mouth living, although he was admittedly a man of genius. It is a fact that Dr. Johnson at least towards the end of his life saw brighter days. But there are scores and hundreds of authors and painters and gifted musicians who have died in poverty and who have died in prison for debt which they had to incur for their mere living. History is replete with such instances, of gifted authors whom we today admire and whose works have been placed today at the top of the list of creative works of art, but who were condemned to misery in their life-time. They all had to live a life of poverty and misery. Such instances can be multiplied. As I was pointing out, Mr. Kishen Chand recognised that the authors were unjustly treated in their day by the mercenary world. But still my hon. friend says that this Bill is over-liberal to them. In my opinion

this Bill is not at all over-liberal. This Bill only does justice by the author, by the publisher and by the public.

Sir, the author of a work, whether it be literature, painting, a composition, a drama or anything has to profit by his creative genius. Nobody can dispute that and, whether a publisher can exploit that to his own benefit and not to the benefit of the author is also a fact about which there can be no dispute. Mr. Kishen Chand, I am sure, recognises the right of the author to profit by his work and the right of the publisher—which he pleaded—also to profit by the investment he makes on the publication. This measure, while doing full justice and giving full scope for the author to benefit by the work of his art, does not prevent the publisher from enjoying the profits which are his due on account of the investment he has made on the work. It has done justice to both. This measure also has not deprived the public of its right although, in my opinion, the period fixed is too long.

I cannot now go into the details. That is not proper because we cannot amend this measure now. It should go to the Select Committee and then come back to us to enable us to table amendments but I would like, for the consideration of the Select Committee, to submit a few suggestions. It has been the precedent in all Government measures, wherever Statutory Boards are thought of, to suggest for at least the place of the Chairman, a serving or a retired Judge of High Court. This, in my humble opinion, has been over done. In matters which call for very high judicial discretion to be exercised in the discharge of the duties, a serving or a retired High Court Judge could be thought of. Even in this case, there is nothing wrong in having High Court Judge; it is all the better to have a High Court Judge but the

point is whether it is inevitable that we should have a High Court Judge considering the fact that there are not many High Court Judges in the country and also retired High Court Judges. That being so, would it be advisable to carry on this precedent in every Government measure wherever a Statutory Board is thought of? This is a question which I should like this House and the Select Committee to consider. In the matter of the work of the Board of Copyrights thought of in this measure, I do not personally believe that a High Court Judge is indispensable. Any man with some knowledge of publication, some legal knowledge of an author's rights, would do well as Chairman provided he is a man of integrity and his antecedents are above board. Such a man would satisfy, according to me, the requirements. I would like the Select Committee, if they think fit, to accept this suggestion and change this clause accordingly.

I also support the suggestion made by the hon. Shrimati Bhargava that the publishers also should be represented on the Board because, as much as the authors, the publishers too have a living interest in the concern.

I was saying in my general remarks that society also should benefit by the works of authors whether they be artists, painters, composers of music or dramatists. If a copyright should subsist for a very long time, necessarily, as the hon. Mr. Kishen Chand pointed out, the wider benefit which society wants from the works cannot be had. The very process of getting a licence or permission either to translate the work or to comment upon any work—a very valuable right for the members of the public—will be a tedious and costly one. While I do not wish the publisher or the author to be deprived of this valuable right, I wish to say that the right of the author to cash his copyright and the right of the publisher to preserve it a

close monopoly should be limited. If a book is valuable and precious, the value of that book will be commercially exploited by either the author or the publisher within the course of ten years. If a book is not at all liked by the public, if it cannot pay returns either to the author or the publisher, even if the copyright is extended for a hundred years after the death of the author it will not serve any purpose either for the author or for the publisher. Therefore, we can specify a range of time within which we can suppose that the author and the publisher would have received adequate returns on the work of art. After that, if the work of art is really precious, the public must be free to use it. Today, let us take the works of Shakespeare. If they are to be treated as a close preserve, we will be depriving the wide interested world from making use of such works. If a painting, as Mr. Kishen Chand pointed out, is a very good one and is the preserve and monopoly of a certain man, then the public will be deprived of the enjoyment of that work of art. Therefore, while assuring to the creator of that work a sufficiently long period of time which is calculated to give him sufficient returns for his labours, the work should then be kept free as the property of the public. Therefore, I personally think that 25 years after the death of the author is too long a period for any copyright to be allowed to continue to subsist. This can well be cut down to ten years. If the author has produced a really valuable work, he will have received all the return due to his work within ten years.

In the matter of definition, some works which should come under copyright are not included although the definition in this measure has been largely enlarged from the one in the Act of 1914. There are some works which should come under the definition. I hope the Select Com-

[Shri M. Govinda Reddy.]

mittee will give some attention to this.

These are all the suggestions that I wish to make at this stage. With these few words, I have very great pleasure in supporting this motion.

SHRI H. P. SAKSENA: Sir, I now need no proof that we are living in very degenerate times when authors and men of art, literature, science and wisdom require their production not for the benefit of mankind and of humanity in general but for their own personal ends. This Copyright Bill is an eye opener in regard to the things that are to come in the future.

This materialistic world is bringing us down to a very low level. Manu, Yagyavalkya and Panini never wanted any copyright for their invaluable productions, for the production of their literature and art. Goethe, Firdousi and Kalidas never wanted any copyright for their production. The immortal works of Kalidas have travelled all the world over and are being translated in all the languages of the world, but now, Sir, we are thinking of copyright and keeping the strings.....

(Interruption.)

I would like my hon. friend Dr. Panjabrao Deshmukh to enlighten me what is it that is troubling him because if he only whispers to his next friend I am helpless.

SHRI M. GOVINDA REDDY: He is just prompting you.

SHRI H. P. SAKSENA: This copyright business has been adopted by other countries of the world. That goes without saying, so much so, as pointed out by my hon. friend Mr. Govinda Reddy, we are still copying even the phraseology and the language of the U.K. Act of Copyright. We have neglected this aspect of the matter so far and so long. At long last the Education Ministry of

the Indian Union, has awakened from its slumber and has thought it fit to bring this Copyright Bill in this House. I must congratulate the hon. sponsor of the Bill for his getting wide awake and doing a little bit of service to the authors, publishers and the readers in general. To my mind the only person who, under the proposed Copyright Bill, should be benefited, is the author. He is the greatest sufferer in the entire category of parties concerned with this affair. He is the greatest sufferer. He has, as pointed out by the previous speakers, to sell his gems, his precious jewels for a song. Necessity compels him to give the exclusive right of publication to those hungry and greed-ridden publishers who hover around authors and persuade them to part with their pieces of art and skill for a very meagre sum of money and, as I pointed out, necessity drives them to enter into that transaction. So I do not think the period of 25 years which has been proposed in the Bill for the progeny of the author to profit by his productions is any too long a period. It should not have been cut down from 50 years to 25 years. In my opinion it should have been retained at least for half a century. But then there are the publishers who are the chief media for bringing the readers and the authors into close contact. Where there are no publishers, official, private or any other, most of the books and excellent works of the authors will remain unpublished, and it has happened in our ancient India in the case of many many very important pieces of literature which did not see the light of the day. Therefore, Sir, at this stage when the Bill is going to be referred to a Select Committee and when there is every likelihood of its being very properly thrashed, it is not proper and wise to be wasting the precious time of the House in discussing the clauses of the Bill which, I must admit, has been rather very carefully drafted and therefore I commend its being sent to the Joint Committee.

DR P. V. KANE (Nominated): Mr Deputy Chairman, in the beginning I did not think of speaking on this Bill but now I do so as those who have spoken have expressed various points of view and I do not know whether the speakers have themselves ever been authors except perhaps my hon. friend, Shri Kishen Chand. Sir, I represent the authors' point of view. I claim to have printed by this time at least 20,000 pages. I do not know whether on the Committee are men who have been authors or who are very much interested in the literary work by way of monetary gratification. The members were just now talking of Shakespeare and Kalidas, who flourished 400 years back and 2,000 years back, respectively. They are great men, but all authors are not Shakespeares and Kalidasas. There are several kinds of authors, first class authors, second class authors and third class authors. It takes some time for some works to come to public notice and if you fix the term at ten years, it may be that in ten years nobody recognises that an author has written something which is of very great importance. Therefore I think that those gentlemen who propose ten years have, most probably, never been authors.

SHRI M. GOVINDA REDDY: I have been an author but a small author.

DR. P. V. KANE: Anyway I do not want to say much at this stage, but look at the definition of "Ownership". I think that comes under clause 16 and there I want the Committee to take into very careful consideration that particular portion about the ownership of copyright. There it is said that "the author of a work shall be the first owner of the copyright therein." This is as it should be. But then there are the provisos and the first proviso is a very dangerous proviso. It says, "in the case of a work made for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copy-

right." Now the important words are "valuable consideration" and I know as an author what it is. If you write something you get ten rupees for it. You are a needy man. The Bill says, "such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright." Being a needy man the poor author is not in a position to impose any contract on a publisher. Therefore these two things must be carefully gone into. Now what is the meaning of "valuable consideration"? "Gratis" one can understand but as regards "valuable consideration" the value may be ten rupees or five rupees or even less and the work may be of 100 or 200 pages. I know Johnson got ten pounds for his 'Rasselas' and that at a time when his mother had died. So the wording of the two phrases is very important. Saying merely "for valuable consideration" will not do. You must put it as "adequate valuable consideration" or something like that. That is important. Secondly I come to the phrase "in the absence of any agreement to the contrary". Now who is to prove it? Is the author to prove or the publisher to prove? The point is: The publisher may say, "There is no contract. I have paid him ten rupees and so the whole work is mine." You must say in this provision that the publisher should prove that there was no "agreement to the contrary"—not that the author has to produce the contract. It is the publisher who should prove that he has paid valuable consideration according to an agreement. They are not parties placed in equal positions. An author may be a poor man and may be starving, whereas a publisher is a rich man, and there are such rich men who employ poor people to get works done by them and those rich publishers have them published in their names. All these I know during the last 45 years. Therefore I am suggesting to the Committee to look at these particularly.

The other point is about the term of copyright. In the Bill it is put down as twenty-five years whereas formerly it was fifty years. One hon. Member

[Dr. P. V. Kane.]

suggested that it should be brought down to ten years. I do not think the society can have any claim on an author's work and copyright after a certain period and if the period is so low as ten years a man may refuse to write and say, "Why should I bother my brain if you are going to give me copyright only for ten years?" An author benefits society. Originally I think the copyright was for a period of fifty years after the death of the author. Now my hon. friend, Mr. Kishen Chand, wants the maximum period of the copyright to be only thirty years, not even fifty years. But remember that the author has to live. Another friend just now was saying that Kalidas and others before him never bothered about copyright, but remember the present-day author has to live in these hard days. In my own life time I have seen that one could have food for five rupees a month in an inn. Now even Rs. 45 are not sufficient even for the worst inns in Bombay. Therefore I am saying he has to live. Otherwise he will not bother himself about writing. Then, as I said, there are different kinds of writing, the best, the middling and the worst. You need not care for the worst, but you must care for the best and the middling. Therefore this proviso should be very carefully looked into.

That is all that I want to say at present.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2-30.

The House then adjourned at one of the clock.

The House reassembled after lunch at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

श्री कन्हैयालाल दाँ० बच्च (मध्य भारत):
उपाध्यक्ष महोदय, जिस बिल के विषय में
सदन में चर्चा हो रही है, मैं उसका समर्थन
कर रहा हूँ। इस विषय में मुख्य रूप से मेरा

यह कहना है कि जिस प्रकार हमारे देश में
गुलामी की स्थिति में सारा देश रहा और
शोषण की व्यवस्था रही, उसी प्रकार इस देश
के जो प्रकाशक हैं वे लेखकों के शोषक बन
कर रहे हैं और वास्तव में लेखक को प्रकाशक
से बहुत कुछ प्रोटेक्शन दिलाने की आवश्यकता
है। कानून की सीमाओं में रह कर यदि हम
इन लेखकों को कुछ रक्षण दिला सकें तो वह
बड़ा अच्छा कार्य होगा। बहुत सी बातें ऐसी
हैं, जिनके अन्तर्गत हम लेखक और प्रकाशक
के बीच की व्यवस्था में सुधार कर सकते हैं और
बहुत कुछ लेखकों के हितों को भी सुरक्षित
कर सकते हैं। जो लेखक अपनी रचना को
प्रकाशक को दे देते हैं और स्वयं उसको
प्रकाशित करने की स्थिति में नहीं होते हैं,
उनके लिए प्रकाशक लोग इस प्रकार की
स्थितियों का निर्माण कर देते हैं, जिससे उनको
वह लाभ जो कि उनको अधिकारपूर्ण मिलना
चाहिए नहीं मिल पाता है। कहां तक कहा
जाय, हमारे प्रधान मंत्री भी, जो कि उन महान्
लेखकों में से हैं कि जिनकी कृतियां संसार के
अंदर बहुत ही आदर की दृष्टि से देखी जाती
हैं, उनको भी अपनी कृतियों के विषय में यह
अनुभव रहा है कि जहां तक स्वयं उनका
भारतीय प्रकाशकों से काम पड़ा उनके पल्ले
कुछ अधिक पैसा नहीं पड़ा। हां, यह बात
ठीक है कि विदेशों से जरूर उनके प्रकाशनों
पर उनको कुछ मिला। किन्तु भारतीय प्रकाशकों
ने उनके साथ न्याय नहीं किया; यहां तक कि
अनुचित रूप से उनके अनुवादों को प्रकाशित
करके धन पैदा किया। हमारे प्रकाशकों का
मूल उद्देश्य यह नहीं रहा है कि निजी और
व्यक्तिगत रूप में राष्ट्र का हित करें, इस
देश के अंदर तो बहुत सारे ऐसे प्रकाशक हैं
जो कि इस धंधे को निजी सम्पत्ति और निजी
व्यवसाय के रूप में करते हैं और अनुचित
लाभ उठाते हैं। जहां तक समाज की स्थिति
है, हम एक नई व्यवस्था के अन्दर इस देश के
सारे कामों को करने जा रहे हैं और स्वतंत्र
भारत में तो हमें इस बात की अपेक्षा करनी
चाहिए कि जो लेखक लोग हैं, जिनका कि

शताब्दियों से शोषण होता आया है, उनको रक्षण दें। वास्तव में इस देश में ऐसे लेखक हैं और हो गए हैं जिन्होंने जन जागृति के लिए और स्वाधीनता प्राप्ति के लिए निरन्तर कार्य किया। लेकिन उन्होंने जो कुछ भी लिखा उसका जो उचित लाभ उनको मिलना चाहिए था वह उनको नहीं मिला और न उसके लिए कोई व्यवस्था ही थी। इस प्रकार उनका जीवन हमेशा ही दुःख और दरिद्रता का जीवन रहा है और अब भी बहुत से लेखक इस देश के अंदर बहुत दुर्दशा और गरीबी में जीवन व्यतीत कर रहे हैं। ऐसे बहुत से लेखक हैं जिनकी कृतियाँ पूरे देश को गर्व हैं और जिन की कृतियों को हमारे राष्ट्र के और संसार के साहित्य में उच्च स्थान प्राप्त हैं, वे भाँपीड़ियों में पड़े हुए हैं और बीमारी और रोग की दशा में, अभाव से पीड़ित होकर, मौत के मुँह में जा रहे हैं और गए हैं। बहुत से ऐसे लेखकों को मैं जानता हूँ जो अकाल मृत्यु के शिकार हुए हैं। ये सब शोषण की व्यवस्था के कारण हैं जिससे इस देश के साहित्य की रचना करने वाले, उसका सृजन करने वाले, देश की जनता को जागृत करने वाले और देश को आगे बढ़ाने वाले जो कलाकार, जो साधक और जो साहित्यकार हुए हैं, उनको बहुत दुर्दशा का जीवन व्यतीत करना पड़ा है। जहाँ तक इस कानून का सम्बन्ध है, मैं जरूर यह आशा करूँगा कि इस की व्यवस्था से आज तक शोषण की जो व्यवस्था प्रकाशकों द्वारा चल रही थी उसमें कुछ फर्क आएगा और फर्क ही नहीं पड़ेगा बल्कि उन लेखकों को वास्तविक रक्षण प्राप्त होगा, जिन्होंने इस देश में स्वतन्त्रता के लिए एक ऐसे साहित्य का सृजन किया, जिस पर मानव जाति गौरव अनुभव कर सकती है और संसार का कल्याण हो सकता है। वे लोग हमेशा उन लोगों को उठाने के लिए जीवन में प्रयत्नशील रहे हैं जो कि कुचले हुए और शोषित हैं। जिन्होंने ऐसे प्रगतिशील साहित्य का सृजन किया है उनके अधिकारों का रक्षण होना बहुत आवश्यक है।

इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ और आशा करता हूँ कि इसके द्वारा सरकार इस दिशा में वह कदम उठायेगी जिस से कि जो कुरीतियाँ इस क्षेत्र में चली आ रही हैं, वे दूर हो जायें।

PROF. G. RANGA (Andhra): Sir,.....

MR. DEPUTY CHAIRMAN: You are a member of the Select Committee.

PROF. G. RANGA: But if there is time I would like to speak.

MR. DEPUTY CHAIRMAN: But you are a member of the Select Committee.

PROF. G. RANGA: There is no bar on it.

SHRI M. GOVINDA REDDY: There are other members who have been permitted to speak in the past.

MR. DEPUTY CHAIRMAN: No, no. We have been observing that rule.

PROF. G. RANGA: We did not make any rule to that effect. It is not a rule first of all and we should not.....

MR. DEPUTY CHAIRMAN: We have been observing that convention. It was only on the Constitution (Amendment) Bill that it was permitted as a special case; in no other case.

SHRI KAILASH BIHARI LALL (Bihar): Sir, this convention is observed only when there are so many speakers. When there is no member wishing to speak, why cannot members of the Select Committee be allowed to speak? There should not be any hard and fast rule.

MR. DEPUTY CHAIRMAN: The motion for reference to Select Committee is to help the members of the Select Committee to take the suggestions made by other members into consideration.

PROF. G. RANGA: When you say that, I have got to offer some observations apart from this Bill. I have been here for a much longer period than your own good self.

MR. DEPUTY CHAIRMAN: So far as this House is concerned we began together.

PROF. G. RANGA: This question came up several times for discussion and we agreed in the end that so long as there were other members, who were not members of the Select Committee, anxious to speak and there was shortage of time also, then preference should be given to those who were not members of the Select Committee. At the same time we also came to this decision that when other members were not pressing for their privilege to speak and if there was time enough for members to express their views, then it was open to the members of the Select Committee also to speak.

The third point is that by the time the Select Committee meets there elapses some time and during that period if any member of the Select Committee wishes to place certain thoughts both for the consideration of other Members of the House and of the Government, then it should be open to him to give expression to some of his suggestions so that by the time the Select Committee meets the Minister concerned could be prepared with the necessary proposals if he thinks that there is substance in those suggestions or if he thinks that he can possibly accept any of the suggestions offered by any one of the members of the Select Committee.

MR. DEPUTY CHAIRMAN: We have been observing this convention in the past. I think it is better that we stick to it. Dr. Shrimali.

DR. K. L. SHRIMALI: Sir, I must express my gratitude to the hon. Members who took part in this debate. I am also grateful to them

for the support which they have given to this measure. I would like to assure them that the Joint Select Committee would give full consideration to the various suggestions that have been made by hon. Members.

There are, however, one or two points which I would like to deal with. My friend, Mr. Kishen Chand, suggested that the Bill does not go far enough in curtailing the rights of authors regarding copyright. Now, Sir, the main purpose of the Copyright Bill is to protect the author. The authors very often have no means of livelihood.....

SHRI KISHEN CHAND: I feel too much protection has been given to the authors.

MR. DEPUTY CHAIRMAN: That is your view.

DR. K. L. SHRIMALI: The authors and artists and those who deal with work in the intellectual field very often have no other means of livelihood and if they are not protected, if they do not get any economic return for the work done by them, then I am afraid we shall stifle intellectual interests.....

SHRI AKBAR ALI KHAN (Hyderabad): As a rule, they are at the border of starvation.

DR. K. L. SHRIMALI: Hon. Members have suggested that many authors in our country live in very poor conditions, they are almost on the verge of starvation. Now, Sir, there are various reasons for this state of affairs. I do not agree with my friend, Mr. Vaidya, that this is entirely due to the exploitation of the authors by publishers. In the first place, in order that authors, artists and painters and all those who deal with creative work may flourish, it is necessary that their works must be appreciated by the people. Sir, as we make progress in education, as we raise our cultural and aesthetic standards, the demand for books, the demand for pieces of art, and the

demand for creative work will increase. The condition of artists and writers, to some extent, can be improved only when the general cultural standard of the society is raised. Now, that I think is a very important point which we should bear in mind. I am afraid I do not agree with my hon. friend, Mr. Vaidya, that publishers are exploiting the authors. It may be that there may be some bad publishers, but there may be some bad authors also; but as a rule unless there are publishers and good publishers, the authors cannot be protected. For the very protection of the authors, we need good publishers and no publisher will come forward unless his interests to some extent are safeguarded. The publisher makes the investment; the publisher tries to find various ways and means by which the book can be marketed and can find a good sale and he puts all his resources. And I think it is only right that some return should go to the publisher also. It is true that the author is mostly responsible for the creative work and the copyright is primarily meant for the protection of the author, but the author himself does not become a publisher. There are very few authors who make successful publishers. Authors because they work in the realm of imagination, because they work mainly in the intellectual field, are not fully conversant with all the business transactions and, therefore, they do need some kind of persons who can help them in bringing their books and their creative work into the market. I think publishers also do render a great service.

My hon. friend, Mr. Kishen Chaud, also said that the duration of the *copyright after the death of the author* is too long, that we have put it 25 years. He would like the period further reduced. Now, I was looking through the various copyright legislations in various countries. I do not know of any country which does not to some extent, protect the rights of

the author's family or children. A country like the U.S.S.R., which cares least for private and personal property, has laid down—this is the amended Bill of 1946—

"After the death of the author the copyright devolves on his heirs for a period of 15 years."

In most countries it is 25 years, but in the U.S.S.R. even after the death of the author the copyright devolves on his heirs for a period of 15 years. And

"The following persons are entitled to the estate of the deceased:

- (1) his children;
- (2) his surviving spouse and disabled parents;
- (3) disabled persons who were maintained by the deceased for at least one year before his death;
- (4) if nobody of the aforementioned categories of persons survives the *de cujus* his parents, even if able to work, are his next heirs; and if no parent is alive, the brothers and sisters of the *de cujus*.

The deceased may by will leave his estate or part of it to all or some of the legal heirs or to State or communal organisations. He may not, however, disinherit his minor children nor other incapacitated legal heirs."

Now, I would like to emphasise this aspect. Very often the author may have some children who are helpless, they may be disabled. The family may be in a very bad condition. In that case, that family will be a burden to the State or the society and I think if we really wish to release the creative urges of the genius, it is very important that he must be freed from financial worries and it is from that point of view, I think, it is important that the authors' rights should be fully protected. Of course, as I myself said in my introductory remarks we shall have to reconcile the

[Dr. K. L. Shrimali.]

various conflicting interests. There is, for example, the author; then there is the publisher; then the surviving family; and, lastly, the society. Now, all these, I think, are interdependent. An individual finds the best expression only in the medium of society and, therefore, society has a right to share the creation of an individual artist. But it is also the duty of the society to create conditions in which the artists and writers will flourish. And if my hon. friends would look at this Copyright Bill carefully, they would find that the provisions that we have made safeguard the interests of everybody—the author, the publisher and the surviving family and lastly, the society.

We have also to take into account the pattern of society which we are building up. We have to build up socialistic pattern of society in this country. All our legislations as our planning have to be directed from that point of view. In a society like ours, it is not possible to give unrestricted rights to the authors and, therefore, in the Bill we have made certain provisions which put certain limitations on the rights of authors also. The author has no right to deny to the society the pleasures of his creation. That will defeat the very objective of the society as also of the individual creation.

Various suggestions have been made by hon. Members. Shri Govinda Reddy has made a suggestion that we need not have a High Court Judge as Chairman. Mr. Saksena also suggested that by bringing this Bill, we are only proving that our society is a degenerate society. Now, he is still thinking of the Utopia where authors could survive without having any means of subsistence. If we really want the creative work to be done properly by the artists and the writers it is very important that their material comforts should be safeguarded. After all, the spirit cannot survive if the body perishes. I do

not know how my hon. friend thinks that the genius can create great things without taking care of the material comforts and the basic necessities of life. All that we are saying is that the basic necessities of life for the authors, the writers and the artists should be met.

SHRI H. P. SAKSENA: On a point of personal explanation, Sir, I will present my friend, Dr. Shrimali, with a copy of my speech recorded as it is here tomorrow, so that he may correct his misunderstanding of what I said.

DR K. L. SHRIMALI: Well, I am glad that he did not take that view. If that is his view, I am very glad; but I thought that by bringing this Bill, he said that it would only prove that our society had become degenerate, that Kalidasa never worked under protection and why should we bring in all this protection now.

With these remarks, I request the House that the Bill might be referred to a Joint Select Committee and it may accept my motion

MR DEPUTY CHAIRMAN: The question is:

"That the Bill to amend and consolidate the law relating to copyright be referred to a Joint Committee of the Houses consisting of 45 Members; 15 Members from this House, namely:—

1. Shri Mohamed Valiulla,
2. Prof. R. D. Sinha Dinkar,
3. Prof. G. Ranga,
4. Shri Nawab Singh Chauhan,
5. Prof. Dr. Raghu Vira,
6. Shri Benarsi Das Chaturvedi,
7. Shrimati Lilavati Munshi,
8. Shri Raghavendrarao,
9. Dr. Raghubir Singh,
10. Shri Shyam Dhar Misra,
11. Kakasaheb Kalelkar,
12. Shri Abdur Rezzak Khan,
13. Shri N. B. Deshmukh,
14. Shri Rajendra Pratap Sinha,
15. Dr. K. L. Shrimali, the mover,

and 30 Members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of Members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make;

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of Members to be appointed by the Lok Sabha to the Joint Committee; and

that the Committee shall make a report to this House by the 25th May, 1956."

The motion was adopted.

THE MULTI-UNIT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 1955

THE MINISTER FOR AGRICULTURE (DR. P. S. DESHMUKH): Sir, I move:

"That the Bill further to amend the Multi-Unit Co-operative Societies Act, 1942, be taken into consideration."

As the House must be aware, this is only a one-line Bill and the reason for this amendment has already been explained in the Statement of Objects and Reasons. Originally, there was a Central Act passed in the year 1912, but in 1919, there was Provincial Autonomy so far as the subject of co-operation was concerned and so, this Act was considered as if it was an Act passed by those provincial legislatures. Some of them had passed special Acts; the others merely adapt-

ed this Act and brought it into force. There were, however, certain societies which operated and wanted their objects not to be confined to only one State, but to be extended to more than one State. Therefore, the need arose of passing an enactment by the Government of India called the Multi-Unit Co-operative Societies Act in 1942.

Now, under the then existing circumstances, it was mentioned that it applied to the whole of India—India then being only British India and not all the States and all the parts. It is for this reason—that difficulties arose especially with respect to certain Part 'C' States—that we thought it necessary to bring in the amendment that is before this House. By this we will obviate the difficulty of the operation of the multi-unit co-operative societies in more than one State. The amendment seeks to extend the Act to the whole of India except the State of Jammu and Kashmir. The special feature about Jammu and Kashmir is well known to the House and we, therefore, have to except it because entry No. 44 of the Union List is not included in the Constitution (Application to Jammu and Kashmir) Order, 1954.

I do not propose to take more time of the House. We have, besides the Railway Co-operative Societies of which we have not got the full details of membership etc., about 39 Societies operating in more than one State. Their membership is 5,42,382. Of these, 1,20,626 are from the areas outside the State of registration. And the Railway Board also as well as such societies as the Post and Telegraphs, Railway Workers and the proposed National Co-operative Union of Railway Workers—all these societies will benefit from the amendment I am proposing.

I hope that my motion will be accepted by the House.

The following report of the Joint Committee of the Houses on the Bill to amend and consolidate the law relating to copyright was presented to the Rajya Sabha on the 19th November, 1956:—

COMPOSITION OF THE JOINT COMMITTEE

Members

RAJYA SABHA

1. Dr. K. L. Shrimali—*Chairman*.
2. Shri Mohamed Valiulla
3. Prof. R. D. Sinha Dinkar
4. Shri Nawab Singh Chauhan
5. Prof. G. Ranga
6. Shri Benarsi Das Chaturvedi
7. Shrimati Lilavati Munshi
8. Shri Raghavendrarao
9. Dr. Raghubir Sinh
10. Shri Shyam Dhar Misra
11. Kakasaheb Kalelkar
12. Shri Abdur Rezzak Khan
13. Shri N. B. Deshmukh
14. Shri Rajendra Pratap Sinha
- *15. Prof. Dr. Raghu Vira

LOK SABHA

16. Shri B. S. Murthy
17. Shri N. C. Laskar
18. Shri Nageshwar Prasad Sinha
19. Shri Fulsinhji B. Dabhi
20. Shri Joachim Alva
21. Shri T. S. Avinashilingam Chettiar
22. Shri S. V. Ramaswamy
23. Shri Birakisor Ray
24. Shri D. C. Sharma
25. Shri S. C. Samanta
26. Shri Gurmukh Singh Musafir
27. Shri M. Hifzur Rahman

*Appointed on the 6th August, 1956.

28. Dr. Suresh Chandra
29. Shri C. P. Mathew
30. Shrimati Tarkeshwari Sinha
31. Seth Govind Das
32. Shri Rohanlal Chaturvedi
33. Shri C. R. Basappa
34. Dr. Lanka Sundaram
35. Shri U. M. Trivedi
36. Shri V. G. Deshpande
37. Shri N. B. Chowdhury
38. Shri Sadhan Chandra Gupta
39. Shri Bahadur Singh
40. Shri Frank Anthony
41. Shri Ramji Verma
42. Shri M. S. Gurupadaswamy
43. Shri V. Veeraswamy
44. Dr. Mono Mohan Das
45. Maulana Abul Kalam Azad.

REPORT OF THE JOINT COMMITTEE

1. the Chairman of the Joint Committee to which the Bill* to amend and consolidate the law relating to copyright was referred, having been authorised to submit the Report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Rajya Sabha on the 1st October, 1955. The motion for reference of the Bill to a Joint Committee of the Houses (*vide* Appendix I) was moved by me on the 16th February, 1956, and was adopted by the House on the same day.

3. The Lok Sabha discussed the said motion on the 12th March, 30th May and 16th July, 1956, and concurred in it on the 16th July, 1956 (Appendix II).

4. As the Rajya Sabha was not in session, the message from the Lok Sabha was circulated to the members of the Rajya Sabha on the 18th July, 1956.

5. The Rajya Sabha concurred in the recommendation of the Lok Sabha on the 30th July, 1956.

6. The Committee held thirteen sittings in all.

7. The Report of the Joint Committee was to be presented on the 16th August, 1956. The Committee was granted extension of time up to the first day of the Fifteenth Session.

8. The first meeting of the Committee was held on the 13th August, 1956 to draw up the programme of work.

9. The Committee heard the evidence tendered before them by representatives of the organisations specified in Appendix III on the dates mentioned therein. The evidence *in extenso* will be laid on the Table of the House.

10. The Committee took up clause by clause consideration of the Bill on the 22nd October, 1956, and such consideration concluded on the 27th October, 1956.

*Published in Part II—Section 2 of the *Gazette of India Extraordinary*, dated the 1st October, 1955.

from its component parts. A small drafting change has been made in the definition of "exclusive licence". The definition of "Government work" has been enlarged so as to include within its ambit any work made or published by or under the direction or control of any Legislature or any court, tribunal or other judicial authority in India. The definition of "infringing copy" has been recast so as to make its meaning clear in relation to each class of works. The definition of "mechanical contrivance" has been omitted and in its place the expression "record" has been defined. The definition of "performance" has been redrafted so as to make it concise and clear. From the definition of "photograph", a cinematograph film has been excluded. The definition of "pseudonymous work" has been omitted because a self-contained provision has been inserted in respect of pseudonymous works in the revised clause 22. The definition of "radio-diffusion" has been expanded to include television. A new definition of "recording" has been added.

Clause 3.—This clause has been redrafted so as to make it clear that a work shall not be deemed to be published unless sufficient number of copies thereof have been issued to the public. The clause in its revised form is in accordance with Article 4(4) of the Berne Convention.

Clause 4.—The Committee feels that oral transfers of copyright often lead to uncertainty and should be discouraged. References to "consent" and "acquiescence" have, therefore, been omitted from this clause.

Clause 5.—Sub-clause (2) of the original clause 5 has been omitted in view of the new clause 6.

Clause 6 (New).—This is a new clause which replaces sub-clause (2) of original clause 5. It provides that certain disputes about publication etc., should be decided by the Copyright Board and should not be the subject matter of litigation in courts.

Clause 8 (Original clause 7).—In the opinion of the Committee the correct test for determining whether a body corporate is domiciled in India, is not whether it does any business in India but whether it is incorporated under any law in India. The clause has been revised accordingly.

Clauses 11 and 12 (Original clauses 10 and 11).—These clauses have been extensively revised. The Committee feels that the Copyright Board should consist of independent persons and should not contain any representatives of interested parties. In order to ensure

the impartiality of the Copyright Board an express provision has been made that a member of the Board who is interested in any matter arising before the Board should not take part in the proceedings of the Board when that matter is under consideration. Since the Copyright Board has important functions to perform under the Bill, the Committee feels that it should be permissible for Government to appoint a Judge of the Supreme Court as Chairman of the Board. In the opinion of the Committee the functions of the Registrar of Copyrights should be restricted to administrative matters only. The Registrar of Copyrights will not, therefore, be a member of the Board but will act as its Secretary. The Committee is of the view that the Copyright Board should function through various benches sitting at different places in India so that people should have an easy access to it. The jurisdiction of the Copyright Board has accordingly been divided into various zones which correspond to the zones constituted under section 15 of the States Reorganisation Act, 1956.

Clause 13.—In the opinion of the Committee an architectural work of art should not enjoy copyright in this country unless it is located here. Sub-clause (2) of this clause has been amended accordingly.

Clause 14 (Original clause 12).—This clause replaces the original clause 12. The clause sets out separately the rights which are comprised in copyright in relation to each class of works.

Clause 15 (Original clause 14).—The change made in sub-clause (1) is a drafting amendment only. The amendment made in sub-clause (2) is consequential on the decision of the Committee with regard to clause 4.

Clause 17 (Original clause 16).—The various clauses of the proviso have been redrafted. Under clause (a) copyright in a literary, dramatic or artistic work made by an author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship will be split into two parts. So far as such copyright relates to the publication of the work in any newspaper, magazine or similar periodical or to the reproduction of the work for the purpose of it being so published, it will vest in the proprietor of the newspaper, magazine or periodical. In all other respects the copyright will vest in the author. Clause (b) corresponds to the existing clause (a) of the proviso. It relates to commissioned work. In the opinion of the Committee it is only in

Clause 31 (Original clause 33).—This clause has been amended so as to provide that a licence for public performance of a work shall not be granted unless the owner of the copyright in the work has been heard and unless the grant of such licence is necessary in the interests of general public. The clause further provides that a licence shall not be granted if the author of the work has withdrawn from further circulation all copies of the work.

Clause 32 (Original clause 35).—The representative of the Performing Right Society, London, who gave evidence before the Committee pointed out that it will not be possible for a Performing Right Society to prepare and publish a list of all its works which run into several thousands. The clause has, therefore, been amended to provide for the publication of only the statement of fees, charges and royalties which a performing right society proposes to collect.

Clauses 33 and 34 (Original clauses 36 and 37).—These clauses have been revised in the light of the amendments made in the previous clause.

Original Clause 34.—This clause is being omitted and suitable provision is being made in the revised clause 51.

Clause 36 (Original clause 39).—Sub-clause (3) has been revised so as to define precisely the rights attaching to a broadcast reproduction right.

Clause 37 (Original clause 40).—A proviso has been added to the clause to make it clear that no person can make records from any programme broadcast unless such person has also obtained a licence for making such records from the owner of the copyright in the work which is broadcast.

Clause 42 (Original clause 45).—It has been provided that every order made under this Chapter shall be laid before Parliament and shall be subject to such modifications as Parliament may make therein.

Clause 50 (Original clause 53).—The clause has been amended so as to make it clear that a contravention of any condition of a licence shall also be an infringement of copyright. In sub-clause (b) the words "with the knowledge that they are infringing copies" have been omitted. An "Explanation" has been added in respect of a cinematograph film which is otherwise excluded from the definition of "infringing copy" in clause 2(1).

Clause 51 (Original clause 54).—This clause has been revised and expanded so as to include all acts which will not constitute an infringement of copyright. The important additions made are the following:—

- (1) the reproduction or publication of any literary, dramatic, musical or artistic work in any work prepared by the Secretariat of a Legislature for the exclusive use of the members of that Legislature;
- (2) the making of records of a literary, dramatic or musical work, if records of such work had previously been made with the licence of the owner of the copyright in the work;
- (3) the production, reproduction, performance or publication of a translation in any Indian language of an Indian work after the expiry of a period of ten years from the date of the first publication of the work; and
- (4) the reproduction, publication or translation of certain classes of Government works.

The first addition is necessary because the Secretariats of the Rajya Sabha and Lok Sabha often produce brochures or pamphlets taking copyright matter (presumably the same practice prevails in the State Legislatures also) for the use of Members of Parliament. The addition is intended to give protection to such brochures or pamphlets.

The second addition is the result of the omission of the original clause 30. The Committee feels that no licence should be required for making records of a work if records of the work had previously been made with the licence of the owner of the copyright in the work.

The third addition replaces the original clause 31. The Committee feels that in a vast country like ours where so many languages are spoken there should be as few restrictions on translation of works as possible. In the opinion of the Committee the provisions of the existing section 4 of the Indian Copyright Act, 1914, relating to translation of works, are quite satisfactory. The Committee has, therefore, substantially retained those provisions.

So far as the fourth addition is concerned, the Committee feels that certain classes of Government works should be in the public

domain. The following classes of Government works have been placed in the public domain:—

- (i) any matter published in the Official Gazette;
- (ii) Acts of Legislatures, subject to the condition that any such Act is reproduced or published together with any commentary thereon or any other original matter;
- (iii) reports of committees etc. appointed by the Government if such report has been laid on the Table of the Legislature, unless the reproduction or publication of the report is prohibited by a competent authority;
- (iv) reproduction of any judgement or order of a court, tribunal or other judicial authority unless such reproduction or publication is prohibited by the court, tribunal or other judicial authority as the case may be.

Clause 52 (Original clause 55).—The new proviso added to sub-clause (3) is consequential on the amendment made in the original clause 68 (revised clause 65).

Clause 53 (Original clause 56).—The clause has been revised so as to include within the definition of "owner of copyright" the publisher of an anonymous or pseudonymous, literary, dramatic, musical or artistic work in certain circumstances.

Clause 54 (Original clause 57).—The proviso to sub-clause (1) has been revised so as to empower the court to grant to the plaintiff in addition to an injunction a decree for the whole or a part of the profits made by the infringer as the court may deem reasonable. Incidentally, in the original proviso the words "that the plaintiff was the owner of the copyright" have been omitted. A new sub-clause (2) has been added to raise certain presumptions about the authorship or the publisher of a literary, dramatic, musical or artistic work.

Clause 56 (Original clause 59).—Sub-clause (1) (b) has been omitted in view of sub-clause (a) of the proviso in the revised clause 17.

Clause 57 (Original clause 60).—The amendment made is a drafting amendment.

Original Clause 63.—This clause has been omitted because there are no grounds for changing the existing law which prescribes a period of limitation of three years.

Clause 61 (Original clause 65).—Sub-clause (2) of the original clause 65 has been omitted and replaced by a new sub-clause. The Committee feels that the provisions of the original sub-clause (2)

Original clause 81.—This clause is being omitted. It refers to particular matters. It is felt that the provisions of this clause may not be exhaustive, and the better course would be to evolve a general formula which may cover all relevant cases. Such general formulae are contained in sub-clauses (3) and (5) of the revised clause 78.

Clause 78 (Original clause 82).—This clause has been amended in view of the omission of the original clause 81. The new sub-clauses (3) and (5) cover all cases to which reference was made in the original clause 81.

14. The Joint Committee recommends that the Bill as amended be passed.

NEW DELHI;
14th November, 1956.

K. L. SHRIMALI,
Chairman of the Joint Committee.

MINUTES OF DISSENT

I

On the whole, I feel that the Bill has come out very much improved after the consideration by the Joint Committee of both the Houses of Parliament. The provisions have been brought in line with the Berne Convention to which India is a signatory. It has also made improvements in safeguarding the rights of authors. But still I think the following matters require further consideration in the Parliament:—

1. I would like to refer to sub-clause 3 of Clause 13 of the Bill which says that copyright shall not subsist in any cinematograph film or record if in making such film or record, the copyright in any other work has been infringed. I think it will be too hard for *bona fide* producers if the whole copyright is destroyed merely because of some mistake of which the producers were not aware. This is especially hard when vast sums of money are invested and so, I should suggest that this should be made conditional on the infringement being done with knowledge of the copyright. In other cases, penalties may be levied and compensation awarded as the court may think proper.
2. The matter of registration has been discussed more than once in the Joint Committee. The representatives of the P.E.N. etc. were very emphatic that there should not be compulsory registration. Generally in our country I think it is too early to introduce compulsory registration and that the Joint Committee has recognised this. The question whether it will not be good to provide for the automatic registration of a work should be considered.
3. The matter of definition of 'Government works' in clause 2(k) as well as how far certain publications of the Government should be thrown into public domain was discussed at more than one sitting of the Joint Committee. While Clause 51 includes a sub-clause which would give exemption from copyright to the public in certain cases, the Parliament will have to consider these clauses very carefully as to whether the scope of the sub-clauses should be enlarged further in the interest of the public.

4. There are a few other minor matters also which may require improvement. I wouldn't like to lengthen this note by mentioning them.

T. S. AVINASHILINGAM CHETTIAR.

SRI RAM KRISHNA VIDYALAYA P.O.,
The 14th November, 1956.

II

I welcome the measure. It was long overdue, and I agree to the Report subject to this note of dissent.

I have not appreciated the idea of extending the term of copyright as provided in Clause 21 from 25 years to 50 years after the death of the author. The present age has decried all sorts of proprietary rights and as copyright under this statute, is a property right of a private and exclusive nature, I do not agree to the proposal to extend the term to 50 years, which, in practice, would mean a 'Jagirdari' for three generations to the heirs of the deceased author. This will also result in crop of litigation. I, therefore, recommend that the term should not extend beyond 5 years after the death of the author provided his wife survives him.

U. M. TRIVEDI.

NEW DELHI;
The 16th November, 1956.

III

I do not agree with the provision that "the production, reproduction, performance or publication of a translation in any Indian language of an Indian work after the expiry of a period of ten years from the date of the first publication of the work" will not be considered as an infringement of the copyright.

The idea behind this provision appears to be to encourage the translations of books from one Indian language into another. This is a laudable object. But the provision reduces the term of copyright in respect of translation to ten years. In the original Bill this period was proposed to be co-existent with the copyright in the original work, i.e. till 25 years after the death of the author. But on the suggestion put forth by the Sahitya Akademi as also on the representations and protests made by the authors, the copyright

period in the original work was raised from 25 to 50 years after the death of the author. But what the authors gained in respect of the original work, they have been made to part with in respect of the translation. The Sahitya Akademi had suggested that the copy-right in respect of the translation should be co-existent with that in respect of the original work. The original Bill itself had raised the period from 10 years (as it exists now) to 25 years. I am not convinced that there are sound reasons for the reduction of the period from 25 years to 10 years again.

Let us ask the question, what should be the principles on which we can put a limitation on the copyright in respect of the translation of a book. The first principle is that the author should get certain advantages out of the original work that he has created and also out of its translations. The second principle is that the book is not withheld from other languages for unduly long period of time. So far as the first criterion is concerned, an important book in India is ordinarily not taken notice of by other languages until it has held the field in the language of its first publication for 10 to 15 years at least. So, if the copyright period in respect of translation is fixed at 10 years, no Indian author can expect to get any money out of the translation of his work. He must be satisfied with what he gets out of his original work. This will specially hit hard the authors who write in a language which can claim only limited number of readers.

In fact, the existing Act under which the copyright period in respect of translation expires at the end of 10 years from the first publication of the original work, has worked to the utter detriment of the authors. Most of the novels by Sarat Chandra Chatterjee, the famous novelist of Bengal, were translated into Hindi, while the author was yet alive. The novels, in translation sold in thousands of copies, but the author did not get a pie out of their sale-proceeds. He had to be satisfied with what he could get from the publishers in his own language. Something like this also happened in the case of GURUDEVA (Tagore). Publishers in Hindi and other languages were making good money out of the translations of his works, but the poet, revered by the nation, was in his extremely old age touring the country for money to support the Shanti-Niketan.

What are the prospects of translations in this country? It is not yet clear if many books from Hindi (the speakers of which language are most numerous in the country) will be rapidly translated into other languages. But the process of translating books from other Indian languages into Hindi is going on with impressive speed. Hindi provides the largest book-selling market in the country now and there are good prospects that if the law did not deprive the

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authors of their legitimate rights, they could get a fair income from the translations of their works. Besides helping the authors economically, the scheme will also inspire good will in them for the Hindi language and strengthen the unity of the country.

And why is it necessary to ensure a fair income to the authors? Firstly, because the books are the property created by the authors and they should be justly allowed a fair share in the income accruing from it. And secondly, the authors need economic freedom to speak out their minds freely. If you do not ensure the author his economic freedom he will be compelled to seek employment under the State or some moneyed man and either of the situations will tend to condition his thinking. Many of our writers, all over the country, have recently joined the A.I.R. or other Government organisations and there is already great comment of their conduct. Suspicions have already begun to be expressed through articles, speeches and comments that the *Sarkari Sahityakara* (Litterateurs associated with the Government) may develop a tendency to suppress their feelings which, ultimately, reflect the feelings of the people. It is, therefore, very essential to ensure all reasonable incomes to the author so that he may lead an independent life if he so chooses.

Taking all these factors into consideration I am of the opinion that the author's copyright in respect of translation should not expire at the end of 10 years from the first publication of the original work, but it should continue till the life-time of the author and for 10 years after his death.

There is a particular point which should be kept in view. Sometimes very hideous translations appear of the books and they cause immense pain to the author of the original work. For example, GURUDEVA did not like that his poems should be translated in verse. Such translations appeared to him horrible. But how could he stop the translators who took advantage of the law? Of course, such crudities cannot be avoided, but, we can, at least, spare the author this pain if we provide that no translation of a book will appear without the consent of the author as long as he is alive. And we should not end the author's copyright simultaneously with his death for it is not improbable to imagine that this may, in extreme cases, excite murderous tendency in persons who may be looking upon certain books with greedy eyes.

The present provision in the Bill is also against the Brussels Text of the Berne Convention to which India is a party. According to the Berne Convention the copyright periods for the original and the translations are the same, i.e., for 50 years. No country which has

The State, therefore, must grant the author the widest possible protection, not merely in consideration of his personal effort but also in recognition of his contribution to the common good.

The utilization of a work of the mind for personal or public use without the authorisation of the author can be justified only by cultural reasons, and by general good to the community, and in so far as such use does not seriously prejudice the economic interests of the author.

The Joint Committee keeping these broad principles in view, modified the various provisions of the Bill which are welcome, but the two clauses 51(1)(d) and 51(1)(p) are against the spirit of these principles, and have made serious inroads into the generally recognised rights of the authors.

Clause 51(1) (p)

Clause 51(1)(p) curtails the translation rights of the author in his intellectual works. In the original proposal of the Bill translation rights were co-existent with the term of the copyright. Now it is proposed to limit his copyright so far as translation rights into any Indian language were concerned, to a period of ten years only from the date of the first publication. We object to this curtailment for the following reasons:—

(a) It is against both the Berne Convention (Brussels Text) and Universal Copyright Convention which read as follows:—

“Authors of literary and artistic works protected by this Convention shall have the *exclusive* right of making and of authorising the translation of their works *throughout* the term of protection of their right in the original works.” (Article 8 of the Berne Convention).

“Copyright shall include the exclusive right of the author to make, publish and authorize the making and publication of translations of works protected under this Convention.” (Article V of the Universal Copyright Convention).

The Universal Copyright Convention, however, provides for non-exclusive licence for translation of a work, if not already done, or if such permission was denied by the owner of the right, subject to just and adequate payment of compensation to the owner of the right of translation; and provided a correct translation was assured. Further licence was not to be issued when the author had withdrawn from circulation all copies of the work.

What the Committee proposes to do is to place the right of translation in the public domain at the end of ten years after the first publication, without any safeguards. We have our doubts whether

we could ratify the two Conventions with such a provision in our Law. If we take recourse to Chapter IX, the Indian authors shall be denied the rights, which shall be enjoyed by their foreign brethren in their own land.

(b) It will seriously injure the economic interests of our authors who need all kinds of encouragement today. A vast majority of our authors are proverbially ill-paid for their creative work.

We can concede in the interest of fostering national and cultural unity, the works in one language must be made available in other languages of India. But this need not be done at the cost of the poor authors and poets, who are the springs and custodians of our cultural heritage. The least we could do was to secure the royalty due to an author in the event of a translation of his work.

Clause 51(1) (d)

This clause has been inserted in order to make available to the Members of Parliament information at short notice on matters of interest and importance, by permitting reproduction of any copyright material. We recognise the importance of having such a clause, but we cannot subscribe to the view that this amenity to Members of Parliament should be subsidised by the writers, authors or copyright owners who are the least capable to bear the burden. Even the Railways, which are rich and flourishing, and are a State enterprise, charge the Secretariats of the two Houses of Parliament for providing travelling facilities to the members of their respective Houses.

The interest of the private research institutions and their publications and of the writers on the economic, political, social subject etc., particularly of current importance, will be adversely affected by this clause whereas these need all protection by this measure.

Moreover, we are not sure whether under the terms of the Berne Convention it will be possible to reproduce the foreign copyright materials.

We, however, suggest that a provision for payment of compensation to the owners of the copyright for such reproduction be made in the Bill and in case of difference of opinion on the reasonable amount of compensation, the Copyright Board could be made the final arbitrator in the matter.

In view of the fact that during the time of the foreign rule some glaring injustices were done to the authors due to the exigencies of the circumstances, the Sahitya Akademi had suggested that this opportunity should be taken to undo such wrongs. Provision should be incorporated to enable authors or their heirs to regain their copyright on such terms and conditions as might be fixed by the Copyright Board, and the effectiveness of such provisions could be limited to a short period, say of 5 years.

Clause 51 (1) (k)

The provision to permit the performance of literary, dramatic or musical work for the benefit of a charitable institution, is liable to be abused by unscrupulous persons, and such a provision has led to litigation in other countries.

Clause 34(5)

The wording of this sub-clause which is similar to Section 50(9) of the Canadian Act, does not provide for the case of a tariff expressed as a percentage of box office takings, revenue from hiring a hall, etc. In Canada authors and composers had to fight protracted litigations in order to clarify the true position. This may be safeguarded against by suitable amendment to this sub-clause.

RAJENDRA PRATAP SINHA
RAGHU VIRA
M. S. GURUPADASWAMY

NEW DELHI;

The 17th November, 1956.

V

Though the Bill as it has emerged from the Joint Committee, is a great improvement on the Bill as introduced in the Rajya Sabha, there are certain aspects of it which are totally unacceptable.

Clause 17

Clause 17, which defines the first owner of copyright perpetrates grave injustice on journalists and authors, who are employed, by depriving them of the ownership of the copyright in their creation, under certain circumstances in the absence of a contract to the contrary. As a matter of principle, the person who created a work should be the owner of the copyright. If there is to be an exception, such exception should be introduced by specific agreement between the author and any other person. Even apart from principles, the provisions of clause 17 would seriously prejudice the position of the authors to whom copyright has been denied in the absence of an agreement to the contrary. This provision would enable unscrupulous employers to obtain valuable copyrights, without adequately paying their employees for it, for the employees can hardly be expected to be in a position to compel such employers to enter into an agreement renouncing the copyright in the creation of the employees. No one would suggest that copyright should be inalienably vested in the employee. What is suggested is only that the employee should be placed in such a position that if the copyright is taken away from him, he should be able to get ample recompense for it. This he can only have if the scheme of the provisions of

Bill No. XVB of 1955**THE COPYRIGHT BILL, 1956**

(AS AMENDED BY THE JOINT COMMITTEE)

(Words side-lined or under-lined indicate the amendments made by the Joint Committee; asterisks indicate omissions.)

A

BILL

*to amend and consolidate the law relating to copyright.*BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Copyright Act, 1956.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

10 2. In this Act, unless the context otherwise requires,—

(a) “adaptation” means,—Interpreta-
tion.(i) in relation to a dramatic work, the conversion of the work into a non-dramatic work;(ii) in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise;

15

(iii) in relation to a literary or dramatic work, any abridgement of the work or any version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical; and

(iv) in relation to a musical work, any arrangement or transcription of the work;

(b) "architectural work of art" means any building or structure having an artistic character or design, or any model for such building or structure;

(c) "artistic work" means—

(i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possesses artistic quality;

(ii) an architectural work of art; and

(iii) any other work of artistic craftsmanship.

(d) "author" means,—

(i) in relation to a literary or dramatic work, the author of the work;

(ii) in relation to a musical work, the composer;

(iii) in relation to an artistic work other than a photograph, the artist;

(iv) in relation to a photograph, the person taking the photograph;

(v) in relation to a cinematograph film, the owner of the film at the time of its completion; and

(vi) in relation to a record, the owner of the original plate from which the record is made, at the time of the making of the plate;

(e) "calendar year" means the year commencing on the 1st day of January;

(f) "cinematograph film" includes the sound track, if any, and "cinematograph" shall be construed as including any work produced by any process analogous to cinematography;

(g) "delivery" in relation to a lecture, includes delivery by means of any mechanical instrument or by radio-diffusion;

(h) "dramatic work" includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise but does not include a cinematograph film;

(i) "engravings" include etchings, lithographs, wood-cuts, prints and other similar works, not being photographs;

(j) "exclusive licence" means a licence which confers on the licensee or on the licensee and persons authorised by him, to the exclusion of all other persons (including the owner of the copyright), any right comprised in the copyright in a work, and "exclusive licensee" shall be construed accordingly;

(k) "Government work" means a work which is made or published by or under the direction or control of—

(i) the Government or any department of the Government;

(ii) any Legislature in India;

(iii) any court, tribunal or other judicial authority in India;

(l) "infringing copy" means,—

(i) in relation to a literary, dramatic, musical or artistic work, a reproduction thereof otherwise than in the form of a cinematograph film;

(ii) in relation to a cinematograph film, a copy of the film or a record embodying the recording in any part of the sound track associated with the film;

(iii) in relation to a record, any such record embodying the same recording; and

(iv) in relation to a programme in which a broadcast reproduction right subsists under section 36, a record recording the programme,

if such reproduction, copy or record is made or imported in contravention of the provisions of this Act;

(m) "lecture" includes address, speech and sermon;

(n) "literary work" includes tables and compilations;

* * * *

(o) "musical work" means any combination of melody and harmony or either of them, printed, reduced to writing or otherwise graphically produced or reproduced;

(p) "performance" includes any mode of visual or acoustic presentation, including any such presentation by the exhibition of a cinematograph film, or by means of radio-diffusion, or by the use of a record, or by any other means and, in relation to a lecture, includes the delivery of such lecture;

(q) "performing rights society" means a society, association or other body, whether incorporated or not, which carries on business in India of issuing or granting licences for the performance in India of any works in which copyright subsists;

(r) "photograph" includes photo-lithograph and any work produced by any process analogous to photography but does not include any part of a cinematograph film;

(s) "plate" includes any stereotype or other plate, stone, block, mould, matrix, transfer, negative or other device used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records for the acoustic presentation of the work are or are intended to be made;

(t) "prescribed" means prescribed by rules made under this Act;

* * * *

(u) "radio-diffusion" includes communication to the public by any means of wireless diffusion whether in the form of sounds or visual images or both;

(v) "record" means any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable of being reproduced therefrom, other than a sound track associated with a cinematograph film;

(w) "recording" means the aggregate of the sounds embodied in and capable of being reproduced by means of a record;

(x) "work" means any of the following works, namely:—

(i) a literary, dramatic, musical or artistic work;

(ii) a cinematograph film;

(iii) a record;

(y) "work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors;

(z) "work of sculpture" includes casts and models.

3. For the purposes of this Act, "publication" means,—

Meaning of publication.

(a) in the case of a literary, dramatic, musical or artistic work, the issue of copies of the work to the public in sufficient quantities;

(b) in the case of a cinematograph film, the sale or hire or offer for sale or hire of the film or copies thereof to the public;

(c) in the case of a record, the issue of records to the public in sufficient quantities;

but does not, except as otherwise expressly provided in this Act, include,—

(i) in the case of a literary, dramatic or musical work, the issue of any records recording such work;

(ii) in the case of a work of sculpture or an architectural work of art, the issue of photographs and engravings of such work.

4. Except in relation to infringement of copyright, a work shall not be deemed to be published or performed in public, if published, or performed in public, without the licence of the owner of the copyright.

When work not deemed to be published or performed in public.

5. For the purposes of this Act, a work published in India shall be deemed to be first published in India, notwithstanding that it has been published simultaneously in some other country, unless such other country provides a shorter term of copyright for such work; and a work shall be deemed to be published simultaneously in India and in another country if the time between the publication in India and the publication in such other country does not exceed thirty days or such other period as the Central Government may, in relation to any specified country, determine.

When work deemed to be first published in India.

Certain disputes to be decided by Copyright Board.

6. If any question arises,—

(a) whether for the purposes of section 3, copies of any literary, dramatic, musical or artistic work, or records are issued to the public in sufficient quantities; or

(b) whether for the purposes of section 5, the term of copyright for any work is shorter in any other country than that provided in respect of that work under this Act;

it shall be referred to the Copyright Board constituted under section 11 whose decision thereon shall be final.

Nationality of author where the making of unpublished work is extended over considerable period.

7. Where, in the case of an unpublished work, the making of the work is extended over a considerable period, the author of the work shall, for the purposes of this Act, be deemed to be a citizen of, or domiciled in, that country of which he was a citizen or wherein he was domiciled during any substantial part of that period.

Domicile of corporations.

8. For the purposes of this Act, a body corporate shall be deemed to be domiciled in India if it is incorporated under any law in force in India.

CHAPTER II

COPYRIGHT OFFICE AND COPYRIGHT BOARD

Copyright Office.

9. (1) There shall be established for the purposes of this Act an office to be called the Copyright Office.

(2) The Copyright Office shall be under the immediate control of the Registrar of Copyrights who shall act under the superintendence and direction of the Central Government.

(3) There shall be a seal for the Copyright Office.

Registrar and Deputy Registrars of Copyrights.

10. (1) The Central Government shall appoint a Registrar of Copyrights and may appoint one or more Deputy Registrars of Copyrights.

(2) A Deputy Registrar of Copyrights shall discharge under the superintendence and direction of the Registrar of Copyrights such functions of the Registrar under this Act as the Registrar may, from time to time, assign to him; and any reference in this Act to the Registrar of Copyrights shall include a reference to a Deputy Registrar of Copyrights when so discharging any such functions.

Copyright Board.

11. (1) As soon as may be after the commencement of this Act, the Central Government shall constitute a Board to be called the Copyright Board which shall consist of a Chairman and not less than two nor more than eight other members.

(2) The Chairman and other members of the Copyright Board shall hold office for such period and on such terms and conditions as may be prescribed.

(3) The Chairman of the Copyright Board shall be a person who is, or has been, a Judge of the Supreme Court or a High Court or is qualified for appointment as a Judge of a High Court.

(4) The Registrar of Copyrights shall be the Secretary of the Copyright Board and shall perform such functions as may be prescribed.

12. (1) The Copyright Board shall, subject to any rules that may be made under this Act, have power to regulate its own procedure, including the fixing of places and times of its sittings:

Provided that the Copyright Board shall hear any proceeding instituted before it under this Act within the zone in which, at the time of the institution of the proceeding, the person instituting the proceeding actually and voluntarily resides or carries on business or personally works for gain.

Explanation.—In this sub-section “zone” means a zone specified in section 15 of the States Reorganisation Act, 1956.

(2) The Copyright Board may exercise and discharge its powers and functions through Benches constituted by the Chairman of the Copyright Board from amongst its members, each Bench consisting of not less than three members.

(3) If there is a difference of opinion among the members of the Copyright Board or any Bench thereof in respect of any matter coming before it for decision under this Act, the opinion of the majority shall prevail:

Provided that where there is no such majority—

(i) if the Chairman was one of the members who heard the matter, the opinion of the Chairman shall prevail;

(ii) if the Chairman was not one of the members who heard the matter, the matter shall be referred to him for his opinion and that opinion shall prevail.

(4) The Copyright Board may authorise any of its members to exercise any of the powers conferred on it by***section 73 and any order made or act done in exercise of those powers by the member so authorised shall be deemed to be the order or act, as the case may be, of the Board.

Powers and
procedure of
Copyright
Board.

(5) No member of the Copyright Board shall take part in any proceedings before the Board in respect of any matter in which he has a personal interest.

(6) No act done or proceeding taken by the Copyright Board under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

(7) The Copyright Board shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898, and all proceedings before the Board shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code.

CHAPTER III

COPYRIGHT

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Works in
which copy-
right sub-
sists.

13. (1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say,—

- (a) original literary, dramatic, musical and artistic works;
- (b) cinematograph films; and
- (c) records.

(2) Copyright shall not subsist in any work specified in sub-section (1), other than a work to which the provisions of section 39 or section 40 apply, unless,—

(i) in the case of a published work, the work is first published in India, or where the work is first published outside India, the author is at the date of such publication, or in a case where the author was dead at that date, was at the time of his death, a citizen of India;*

(ii) in the case of an unpublished work other than an architectural work of art, the author is at the date of the making of the work a citizen of India or domiciled in India; and

(iii) in the case of an architectural work of art, the work is located in India.

Explanation.—In the case of a work of joint authorship, the conditions conferring copyright specified in this sub-section shall be satisfied by all the authors of the work.

(3) Copyright shall not subsist in any cinematograph film or record if in making such film or record the copyright in any other work has been infringed.

(4) The copyright in a cinematograph film or a record shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or as the case may be, the record is made.

(5) In the case of an architectural work of art, copyright shall subsist only in the artistic character and design and shall not extend to processes or methods of construction.

14. (1) For the purposes of this Act, "copyright" means the exclusive right, by virtue of and subject to the provisions of this Act,—

Meaning of copyright.

(a) in the case of a literary, dramatic or musical work, to do and authorise the doing of any of the following acts, namely:—

(i) to reproduce the work in any material form;

(ii) to publish the work;

(iii) to perform the work in public;

(iv) to produce, reproduce, perform or publish any translation of the work;

(v) to make any cinematograph film or a record in respect of the work;

(vi) to communicate the work by radio-diffusion or to communicate to the public by a loud-speaker or any other similar instrument the radio-diffusion of the work;

(vii) to make any adaptation of the work;

(viii) to do in relation to a translation or an adaptation of the work any of the acts specified in relation to the work in clauses (i) to (vi);

(b) in the case of an artistic work, to do or authorise the doing of any of the following acts, namely:—

(i) to reproduce the work in any material form;

(ii) to publish the work;

(iii) to include the work in any cinematograph film;

(iv) to make any adaptation of the work;

(v) to do in relation to an adaptation of the work any of the acts specified in relation to the work in clause (i) to (iii).

(c) in the case of a cinematograph film to do or authorise the doing of any of the following acts, namely:—

(i) to make a copy of the film;

(ii) to cause the film, in so far as it consists of visual images, to be seen in public and, in so far as it consists of sounds, to be heard in public;

(iii) to make any record embodying the recording in any part of the sound track associated with the film by utilising such sound track;

(iv) to communicate the film by radio-diffusion;

(d) in the case of a record, to do or authorise the doing of any of the following acts by utilising the record, namely:—

(i) to make any other record embodying the same recording;

(ii) to cause the recording embodied in the record to be heard in public;

(iii) to communicate the recording embodied in the record by radio-diffusion.

(2) Any reference in sub-section (1) to the doing of any act in relation to a work or a translation or an adaptation thereof shall include a reference to the doing of that act in relation to a substantial part thereof.

15. (1) Copyright shall not subsist under this Act in any design which is registered under the Indian Patents and Designs Act, 1911.

(2) Copyright in any design, which is capable of being registered under the Indian Patents and Designs Act, 1911, but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his licence, by any other person.

Special provision regarding copyright in designs registered or capable of being registered under the Indian Patents and Designs Act, 1911.

No copyright except as provided in this Act.

16. No person shall be entitled to copyright or any similar right in any work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act or of any other law for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence.

CHAPTER IV

OWNERSHIP OF COPYRIGHT AND THE RIGHTS OF THE OWNER

17. Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein: First owner of copyright.

Provided that—

(a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published but in all other respects the author shall be the first owner of the copyright in the work;

(b) subject to the provisions of clause (a), in the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematograph film made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

(c) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

(d) in the case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

(e) in the case of a work to which the provisions of section 40 apply, the international organisation concerned shall be the first owner of the copyright therein;

18. (1) The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof: Assignment of copyright.

Provided that in the case of the assignment of copyright in any future work, the assignment shall take effect only when the work comes into existence.

(2) Where the assignee of a copyright becomes entitled to any right comprised in the copyright, the assignee as respects the rights so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of copyright and the provisions of this Act shall have effect accordingly.

(3) In this section, the expression "assignee" as respects the assignment of the copyright in any future work includes the legal representatives of the assignee, if the assignee dies before the work comes into existence.

* * * * *

Mode of assignment.

19. No assignment * * of the copyright in any work shall be valid unless it is in writing signed by the assignor or * * * by his duly authorised agent.

Transmission of copyright in manuscript by testamentary disposition.

20. Where under a bequest a person is entitled to the manuscript of a literary, dramatic or musical work, or to an artistic work, and the work was not published before the death of the testator, the bequest shall, unless the contrary intention is indicated in the testator's will or any codicil thereto, be construed as including the copyright in the work in so far as the testator was the owner of the copyright immediately before his death.

Explanation.—In this section, the expression "manuscript" means the original document embodying the work, whether written by hand or not.

CHAPTER V

TERM OF COPYRIGHT

Term of copyright in published literary, dramatic, musical and artistic works.

21. Except as otherwise hereinafter provided, copyright shall subsist in any literary, dramatic, musical or artistic work (other than a photograph) published within the lifetime of the author until fifty years from the beginning of the calendar year next following the year in which the author dies.

Explanation.—In this section the reference to the author shall, in the case of a work of joint authorship, be construed as a reference to the author who dies last.

Term of copyright in anonymous and pseudonymous works.

22. (1) In the case of a literary, dramatic, musical, or artistic work (other than a photograph), which is published anonymously or pseudonymously, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published:

Provided that where the identity of the author is disclosed before the expiry of the said period, copyright shall subsist until fifty years

from the beginning of the calendar year next following the year in which the author dies.

(2) In sub-section (1), references to the author shall, in the case of an anonymous work of joint authorship, be construed,—

(a) where the identity of one of the authors is disclosed, as references to that author;

(b) where the identity of more authors than one is disclosed, as references to the author who dies last from amongst such authors.

(3) In sub-section (1), references to the author shall, in the case of a pseudonymous work of joint authorship, be construed,—

(a) where the names of one or more (but not all) of the authors are pseudonyms and his or their identity is not disclosed, as references to the author whose name is not a pseudonym, or, if the names of two or more of the authors are not pseudonyms, as references to such of those authors who dies last;

(b) where the names of one or more (but not all) of the authors are pseudonyms and the identity of one or more of them is disclosed, as references to the author who dies last from amongst the authors whose names are not pseudonyms and the authors whose names are pseudonyms and are disclosed; and

(c) where the names of all the authors are pseudonyms and the identity of one of them is disclosed, as references to the author whose identity is disclosed or if the identity of two or more of such authors is disclosed, as references to such of those authors who dies last.

Explanation.—For the purposes of this section, the identity of an author shall be deemed to have been disclosed, if either the identity of the author is disclosed publicly by both the author and the publisher or is otherwise established to the satisfaction of the Copyright Board by that author.

23. (1) In the case of a literary, dramatic or musical work or an adaptation of any such work or an engraving, in which copyright subsists at the date of the death of the author or, in the case of any such work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published before that date, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

Term of copyright in posthumous works.

(2) For the purposes of this section a literary, dramatic or musical work or an adaptation of any such work, shall be deemed to have been published, if it has been performed in public or if any records made in respect of the work have been sold to the public or have been offered for sale to the public.

Term of
copyright in
photographs.

24. In the case of a photograph, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the photograph is published.

Term of
copyright in
cinematograph films.

25. In the case of a cinematograph film, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which a certificate for public exhibition in respect of the film is granted under section 4 of the Cinematograph Act, 1952.

Term of
copyright in
records.

26. In the case of a record, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the record is published.

Term of
copyright in
Government
works

27. In the case of a Government work, where Government is the first owner of the copyright therein, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

Term of
copyright in
works of
international
organisations.

28. In the case of a work of an international organisation to which the provisions of section 40 apply, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

CHAPTER VI

LICENCES

Licences by
owners of
copyright.

29. The owner of the copyright in any existing work or the prospective owner of the copyright in any future work may grant any interest in the right by licence in writing signed by him or by his duly authorised agent:

Provided that in the case of a licence relating to copyright in any future work, the licence shall take effect only when the work comes into existence.

Explanation.—Where a person to whom a licence relating to copyright in any future work is granted under this section dies before the work comes into existence, his legal representatives shall, in the absence of any provision to the contrary in the licence, be entitled to the benefit of the licence.

30. (1) If at any time during the term of copyright in any work which has been published or performed in public, a complaint is made to *the Copyright Board that the owner of copyright in the work—

Compulsory
licence in
works
withheld
from public.

(a) has refused to republish or allow the republication of the work or has refused to allow the performance in public of the work, and by reason of such refusal the work is withheld from the public; or

(b) has refused to allow communication to the public by radio-diffusion of such work or in the case of a record the work recorded in such record, on terms which the complainant considers reasonable;

the Copyright Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that it is in the interests of the general public so to do, direct the Registrar of Copyrights to grant to the complainant a licence to republish the work, perform the work in public or communicate the work to the public by radio-diffusion, as the case may be, subject to payment to the owner of the copyright of such compensation and subject to such other terms and conditions as the Copyright Board may determine; and thereupon the Registrar of Copyrights shall grant the licence to the complainant in accordance with the directions of the Copyright Board, on payment of such fee as may be prescribed:

25 Provided that no such licence shall be granted in respect of any work if the owner of the copyright in the work has withdrawn the work from further circulation.

(2) Where two or more persons have made a complaint under sub-section (1), ***the licence shall be granted to the complainant who in the opinion of the Copyright Board would best serve the interests of the general public.

31. (1) The Registrar of Copyrights may on payment of such fee as may be prescribed and, subject to such other terms and conditions as he deems fit, grant a general or special licence for public performance of any literary, dramatic or musical work in which copyright subsists by means of a radio-receiving set or a record in any specified place or by any specified person.

Licences
for public
performance.

(2) A general licence granted under sub-section (1) shall be subject to the previous approval of the Copyright Board and shall be published in the Official Gazette.

(3) No licence, whether general or special, shall be granted under this section,—

(i) unless an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work and unless the Registrar of Copyrights is satisfied that, for reasons to be recorded in writing, the grant of such licence is necessary in the interests of the general public; or

(ii) if the owner of the copyright in the work has withdrawn the work from further circulation.

* * * * *

CHAPTER VII

PERFORMING RIGHTS SOCIETIES

Performing rights society to file statements of fees, charges and royalties.

32. (1) Every performing rights society shall, within the prescribed time and in the prescribed manner, prepare, publish and file with the Registrar of Copyrights, statements of all fees, charges or royalties which it proposes to collect for the grant of licences for performance in public of works in respect of which it has authority to grant such licences.

(2) If any such society fails to prepare, publish or file with the Registrar of Copyrights the *** statements referred to in sub-section (1) in relation to any work, in accordance with the provisions of that sub-section, no action or other proceeding to enforce any remedy, civil or criminal, for infringement of the performing rights in that work shall be commenced except with the consent of the Registrar of Copyrights.

* * * * *

Objections relating to published statements.

33. Any person having any objections to any fees, charges or royalties or other particulars included in any statement referred to in section 32 may at any time lodge such objections in writing at the Copyright Office.

Determination of objections.

34. (1) Every objection lodged at the Copyright Office under section 33 shall, as soon as may be, be referred to the Copyright Board and the Copyright Board shall decide such objection in the manner hereinafter provided.

(2) The Copyright Board shall, in respect of every such objection, give notice thereof to the performing rights society concerned.

(3) The Copyright Board shall, after giving such society and the person who lodged the objection a reasonable opportunity of being heard and after making such further inquiry as may be prescribed, make such alterations in the statements as it may think fit, and shall transmit the alterations made by it to the Registrar of Copyrights, who shall thereupon, as soon as practicable after the receipt of such alterations, publish them in the Official Gazette and furnish the performing rights society concerned and the person who lodged the objection with a copy thereof.

(4) The fees, charges or royalties as altered by the Copyright Board shall be the fees, charges or royalties which the performing rights society concerned may respectively lawfully sue for or collect in respect of the grant by it of licences for the performance in public of works to which such fees, charges or royalties relate.

(5) No performing rights society shall have any right of action or any right to enforce any civil or other remedy for infringement of the performing rights in any work * * * against any person who has tendered or paid to such society the fees, charges or royalties specified in respect of that work in a statement published by that society under sub-section (1) of section 32 or where such statement has been altered by the Copyright Board under this section in the statement so altered.

(6) Where any person has lodged an objection at the Copyright Office regarding the fees, charges or royalties in respect of any work included in a statement published under section 32, that person or any other person, on depositing such fees, charges or royalties at the Copyright Office, may, pending the final decision of such objection by the Copyright Board or the High Court, as the case may be, perform that work without infringing the copyright there-
in.

(7) The fees, charges or royalties deposited at the Copyright Office under sub-section (6) shall be paid to the performing rights society concerned or to the person who made the deposit, or partly to such society and partly to such person, in accordance with the final decision on the objection as aforesaid.

35. Nothing in this Chapter shall be deemed to affect—

(a) any rights or liabilities in relation to the performing rights in any work accrued or incurred before the commencement of this Act;

706-G of I—8

Existing
rights not
affected.

(b) any legal proceedings in respect of such rights or liabilities pending at such commencement.

CHAPTER VIII

RIGHTS OF BROADCASTING AUTHORITIES

Broadcast reproduction rights.

36. (1) Where any programme is broadcast by radio-diffusion by the Government or any other broadcasting authority, a special right to be known as "broadcast reproduction right" shall subsist in such programme. 5

(2) The Government or other broadcasting authority, as the case may be, shall be the owner of the broadcast reproduction right and such right shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the programme is first broadcast. 10

(3) During the continuance of a broadcast reproduction right in relation to any programme, any person who,—

(a) without the licence of the owner of the right— 15

(i) rebroadcasts the programme in question or any substantial part thereof; or

(ii) causes the programme in question or any substantial part thereof to be heard in public; or 20

(b) without the licence of the owner of the right to utilise the broadcast for the purpose of making a record recording the programme in question or any substantial part thereof, makes any such record,

shall be deemed to infringe that broadcast reproduction right. 25

Other provisions of this Act to apply to broadcast reproduction rights.

37. Section 18, section 29 and section 54*** (which relate to assignments and licences and civil remedies for infringement ***) shall, with any necessary adaptations and modifications, apply in relation to the broadcast reproduction right in any programme as they apply in relation to the copyright in a work. 30

Provided that a licence to utilise a broadcast for the purpose of making a record recording a programme in which broadcast reproduction right subsists or any substantial part of such programme, shall not take effect unless the person to whom such licence is granted has also obtained a licence to make records recording the work embodied in such programme from the owner of the copy-right in such work. 35

38. For the removal of doubts, it is hereby declared that the broadcast reproduction right conferred upon a broadcasting authority under this Chapter shall not affect the copyright—

Other rights
not affected.

(a) in any literary, dramatic or musical work which is broadcast by that authority; or

(b) in any record recording any such work.

CHAPTER IX

INTERNATIONAL COPYRIGHT

39. (1) The Central Government may, by order published in the Official Gazette, direct that all or any provisions of this Act shall apply—

Power to
extend
copyright
to foreign
works.

(a) to works first published in any territory outside India to which the order relates in like manner as if they were first published within India;

(b) to unpublished works, or any class thereof, the authors whereof were at the time of the making of the work, subjects or citizens of a foreign country to which the order relates, in like manner as if the authors were citizens of India;

(c) in respect of domicile in any territory outside India to which the order relates in like manner as if such domicile were in India;

(d) to any work of which the author was at the date of the first publication thereof, or, in a case where the author was dead at that date, was at the time of his death, a subject or citizen of a foreign country to which the order relates in like manner as if the author was a citizen of India at that date or time;

and thereupon, subject to the provisions of this Chapter and of the order, this Act shall apply accordingly:

Provided that—

(i) before making an order under this section in respect of any foreign country (other than a country with which India has entered into a treaty or which is a party to a convention relating to copyright to which India is also a party), the Central Government shall be satisfied that that foreign country has made, or has undertaken to make, such provisions, if any, as it appears

to the Central Government expedient to require for the protection in that country of works entitled to copyright under the provisions of this Act;

(ii) the order may provide that the provisions of this Act shall apply either generally or in relation to such classes of works or such classes of cases as may be specified in the order;

(iii) the order may provide that the term of copyright in India shall not exceed that conferred by the law of the country to which the order relates;

(iv) the order may provide that the enjoyment of the rights conferred by this Act shall be subject to the accomplishment of such conditions and formalities, if any, as may be prescribed by the order;

(v) in applying the provisions of this Act as to ownership of copyright, the order may make such exceptions and modifications as appear necessary, having regard to the law of the foreign country;

(vi) the order may provide that this Act or any part thereof shall not apply to works made before the commencement of the order or that this Act or any part thereof shall not apply to works first published before the commencement of the order.

Provisions as
to works of
certain
international
organisations.

40. (1) Where—

(a) any work is made or first published by or under the direction or control of any organisation to which this section applies, and

(b) there would, apart from this section, be no copyright in the work in India at the time of the making or, as the case may be, of the first publication thereof, and

(c) either—

(i) the work is published as aforesaid in pursuance of an agreement in that behalf with the author, being an agreement which does not reserve to the author the copyright, if any, in the work, or

(ii) under section 17 any copyright in the work would belong to the organisation;

there shall, by virtue of this section, be copyright in the work throughout India.

(2) Any organisation to which this section applies which at the material time had not the legal capacity of a body corporate shall have and be deemed at all material times to have had the legal capacity of a body corporate for the purpose of holding, dealing with, and enforcing copyright and in connection with all legal proceedings relating to copyright.

(3) The organisations to which this section applies are such organisations as the Central Government may, by order published in the Official Gazette, declare to be organisations of which one or more sovereign powers or the Government or Governments thereof are members to which it is expedient that this section shall apply.

41. If it appears to the Central Government that a foreign country does not give or has not undertaken to give adequate protection to the works of Indian authors, the Central Government may, by order published in the Official Gazette, direct that such of the provisions of this Act as confer copyright on works first published in India shall not apply to works, published after the date specified in the order, the authors whereof are subjects or citizens of such foreign country, and are not domiciled in India, and thereupon those provisions shall not apply to such works.

Power to restrict rights in works of foreign authors first published in India.

42. Every order made by the Central Government under this Chapter shall, as soon as may be after it is made, be laid before both Houses of Parliament and shall be subject to such modifications as Parliament may make during the session in which it is so laid or the session immediately following.

Orders under this Chapter to be laid before Parliament.

CHAPTER X

REGISTRATION OF COPYRIGHT

43. There shall be kept at the Copyright Office a register in the prescribed form to be called the Register of Copyrights in which may be entered the names or titles of works and the names and addresses of authors, publishers and owners of copyright and such other particulars as may be prescribed.

Register of Copyrights.

44. (1) The author or publisher of, or the owner of or other person interested in the copyright in, any work may make an application in the prescribed form accompanied by the prescribed

Entries in Register of Copyrights.

fee to the Registrar of Copyrights for entering particulars of the work in the Register of Copyrights.

(2) On receipt of an application in respect of any work under sub-section (1), the Registrar of Copyrights may, after holding such inquiry as he may deem fit, enter the particulars of the work in the Register of Copyrights.

Indexes.

45. There shall be also kept at the Copyright Office such indexes of the Register of Copyrights as may be prescribed.

Form and inspection of register.

46. The Register of Copyrights and indexes thereof kept under this Act shall at all reasonable times be open to inspection, and any person shall be entitled to take copies of, or make extracts from, such register or indexes on payment of such fee and subject to such conditions as may be prescribed.

Register of Copyrights to be *prima facie* evidence of particulars entered therein.

47. The Register of Copyrights shall be *prima facie* evidence of the particulars entered therein and documents purporting to be copies of any entries therein or extracts therefrom certified by the Registrar of Copyrights and sealed with the seal of the Copyright Office shall be admissible in evidence in all courts without further proof or production of the original.

Correction of entries in the Register of Copyrights.

48. The Registrar of Copyrights may, in the prescribed cases and subject to the prescribed conditions, amend or alter the Register of Copyrights by—

(a) correcting any error in any name, address or particulars;

or
(b) correcting any other error which may have arisen there- 25
in by accidental slip or omission.

Rectification of register by courts.

49. (1) The High Court, on application of the Registrar of Copyrights or of any person aggrieved, shall order the rectification of the Register of Copyrights by—

(a) the making of any entry wrongly omitted to be made 30
in the register, or

(b) the expunging of any entry wrongly made in or remaining on the register, or

(c) the correction of any error or defect in the register.

(2) In this section, "High Court" means the High Court within 35
whose jurisdiction the Copyright Office is situate or,***within whose

SEC. 21

jurisdiction the person aggrieved actually and voluntarily resides or carries on business or personally works for gain.

CHAPTER XI

INFRINGEMENT OF COPYRIGHT

50. Copyright in a work shall be deemed to be infringed—

When copy-
right infringed.

(a) when any person, * * * * without a licence granted by the owner of the copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Act—

(i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright; or

(ii) permits for profit any place to be used for the performance of the work in public where such performance constitutes an infringement of the copyright in the work, or

(b) when any person—

(i) makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or

(ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or

(iii) by way of trade exhibits in public, or

(iv) imports (except for the private or domestic use of the importer) into India,

any infringing copies of the work. * * *

Explanation.—For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematograph film shall be deemed to be an “infringing copy”.

51. (1) The following acts shall not constitute an infringement of copyright, namely:—

Certain acts
not to be
infringement
of copyright.

(a) a fair dealing with a literary, dramatic, musical or artistic work for the purposes of—

(i) research or private study;

(ii) criticism or review, whether of that work or of any other work;

(b) a fair dealing with a literary, dramatic or musical work for the purpose of reporting current events—

- (i) in a newspaper, magazine or similar periodical; or
- (ii) by radio-diffusion or in a cinematograph film or by means of photographs;

(c) the reproduction of a literary, dramatic, musical or artistic work for the purpose of a judicial proceeding or for the purpose of a report of a judicial proceeding;

(d) the reproduction or publication of a literary, dramatic, musical or artistic work in any work prepared by the Secretariat of a Legislature or, where the Legislature consists of two Houses, by the Secretariat of either House of the Legislature, exclusively for the use of the members of that Legislature;

(e) the reproduction of any literary, dramatic or musical work in a certified copy made or supplied in accordance with any law for the time being in force;

(f) the reading or recitation in public of any reasonable extract from a published literary or dramatic work;

(g) the publication in a collection, mainly composed of non-copyright matter, *bona fide* intended for the use of educational institutions, and so described in the title and in any advertisement issued by or on behalf of the publisher, of short passages from published literary or dramatic works, not themselves published for the use of educational institutions, in which copyright subsists:

Provided that not more than two such passages from works by the same author are published by the same publisher during any period of five years.

Explanation.—In the case of a work of joint authorship, references in this clause to passages from works shall include references to passages from works by any one or more of the authors of those passages or by any one or more of those authors in collaboration with any other person;

(h) the reproduction of a literary, dramatic, musical or artistic work—

- (i) by a teacher or a pupil in the course of instruction;

or

- (ii) as part of the questions to be answered in an examination; or

- (iii) in answers to such questions;

(i) the performance, in the course of the activities of an educational institution, of a literary, dramatic or musical work by the staff and students of the institution, or of a cinematograph film or a record, if the audience is limited to such staff and students, the parents and guardians of the students and persons directly connected with the activities of the institution;

(j) the making of records in respect of any literary, dramatic or musical work if—

(i) records recording that work have previously been made by, or with the licence or consent of, the owner of the copyright in the work; and

(ii) the person making the records has given the prescribed notice of his intention to make the records, and has paid in the prescribed manner to the owner of the copyright in the work royalties in respect of all such records to be made by him, at the rate fixed by the Copyright Board in this behalf:

Provided that in making the records such person shall not make any alterations in, or omissions from, the work, unless records recording the work subject to similar alterations and omissions have been previously made by, or with the licence or consent of, the owner of the copyright or unless such alterations and omissions are reasonably necessary for the adaptation of the work to the records in question;

(k) the performance of a literary, dramatic or musical work by an amateur club or society, if the performance is given to a non-paying audience, or for the benefit of a religious or charitable institution;

(l) the reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topics, unless the author of such article has expressly reserved to himself the right of such reproduction;

(m) the publication in a newspaper, magazine or other periodical of a report of a lecture delivered in public;

(n) the making of not more than three copies of a book (including a pamphlet, sheet of music, map, chart or plan) by or under the direction of the person in charge of a public library for the use of the library if such book is not available for sale in India;

(o) the reproduction, for the purpose of research or private study or with a view to publication, of an unpublished literary,

dramatic or musical work kept in a library, museum or other institution to which the public has access:

Provided that where the identity of the author of any such work or, in the case of a work of joint authorship, of any of the authors is known to the library, museum or other institution, 5 as the case may be, the provisions of this clause shall apply only if such reproduction is made at a time more than fifty years from the date of the death of the author or, in the case of a work of joint authorship, from the death of the author whose identity is known or, if the identity of more authors than one is known, from the death of such of those authors who dies last;

(p) the production, reproduction, performance or publication of a translation in any Indian language of an Indian work after the expiry of a period of ten years from the date of the 15 first publication of the work:

Provided that no translation of such work in that language has been produced, reproduced, performed or published, as the case may be, within the said period by the author or any person authorised by him in this behalf;

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Explanation.—In this clause,—

(i) the expression "Indian work" means a literary, dramatic or musical work published in India, and includes a work published outside India if the author of the work is a citizen of India or is domiciled in India, but does 25 not include an Act of a Legislature or any rules or orders made thereunder; and

(ii) the expression "author" includes the legal representatives of the author;

(q) the reproduction or publication of—

(i) any matter which has been published in any Official Gazette except an Act of a Legislature; 30

(ii) any Act of a Legislature subject to the condition that such Act is reproduced or published together with any commentary thereon or any other original matter; 35

(iii) the report of any committee, commission, council, board or other like body appointed by the Government if such report has been laid on the Table of the Legislature, unless the reproduction or publication of such report is prohibited by the Government; 40

(iv) any judgment or order of a court, tribunal or other judicial authority, unless the reproduction or publication of such judgment or order is prohibited by the court, the tribunal or other judicial authority, as the case may be;

(r) the production or publication of a translation in any Indian language of an Act of a Legislature and of any rules or orders made thereunder—

(i) if no translation of such Act or rules or orders in that language has previously been produced or published by the Government; or

(ii) where a translation of such Act or rules or orders in that language has been produced or published by the Government, if the translation is not available for sale to the public:

Provided that such translation contains a statement at a prominent place to the effect that the translation has not been authorised or accepted as authentic by the Government;

(s) the making or publishing of a painting, drawing, engraving or photograph of an architectural work of art;

(t) the making or publishing of a painting, drawing, engraving or photograph of a sculpture, or other artistic work falling under sub-clause (iii) of clause (c) of section 2, if such work is permanently situate in a public place or any premises to which the public has access;

(u) the inclusion in a cinematograph film of—

(i) an architectural work of art or a sculpture or any artistic work falling under sub-clause (iii) of clause (c) of section 2; or

(ii) any other artistic work, if such inclusion is only by way of background or is otherwise incidental to the principal matters represented in the film;

(v) the use by the author of an artistic work, where the author of such work is not the owner of the copyright therein, of any mould, cast, sketch, plan, model or study made by him for the purpose of the work:

Provided that he does not thereby repeat or imitate the main design of the work;

(w) the making of an object of any description in three dimensions of an artistic work in two dimensions, if the object would not appear, to persons who are not experts in relation to objects of that description, to be a reproduction of the artistic work;

(x) the reconstruction of a building or structure in accordance with the architectural drawings or plans by reference to which the building or structure was originally constructed:

Provided that the original construction was made with the consent or licence of the owner of the copyright in such drawings and plans;

(y) in relation to a literary, dramatic, or musical work recorded or reproduced in any cinematograph film, the exhibition of such film after the expiration of the term of copyright therein:

Provided that the provisions of sub-clause (ii) of clause (a), sub-clause (i) of clause (b) and clauses (f), (g), (l) and (o) shall not apply as respects any act unless that act is accompanied by an acknowledgement—

(i) identifying the work by its title or other description; 15 and

(ii) unless the work is anonymous or the author of the work has previously agreed or required that no acknowledgement of his name should be made, also identifying the author.

(2) The provisions of sub-section (1) shall apply to the doing of 20 any act in relation to the translation of a literary, dramatic or musical work or the adaptation of a literary, dramatic, musical or artistic work as they apply in relation to the work itself.

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Importation
of infringing
copies.

52. (1) The Registrar of Copyrights, on application by the 25 owner of the copyright in any work or by his duly authorised agent and on payment of the prescribed fee, may, after making such inquiry as he deems fit, order that copies made out of India of the work which if made in India would infringe copyright shall not be imported.

(2) Subject to any rules made under this Act, the Registrar of Copyrights or any person authorised by him in this behalf may enter any ship, dock or premises where any such copies as are referred to in sub-section (1) may be found and may examine such copies. 30

(3) All copies to which any order made under sub-section (1) applies shall be deemed to be goods of which the import has been prohibited or restricted under section 19 of the Sea Customs 35

Act, 1878, and all the provisions of that Act shall have effect accordingly:

Provided that all such copies confiscated under the provisions of the said Act shall not vest in the Government but shall be delivered to the owner of the copyright in the work.

CHAPTER XII

CIVIL REMEDIES

53. For the purposes of this Chapter, unless the context otherwise requires, the expression "owner of copyright" shall include—

(a) an exclusive licensee;

(b) in the case of an anonymous or pseudonymous literary, dramatic, musical or artistic work, the publisher of the work, until the identity of the author or, in the case of an anonymous work of joint authorship, or a work of joint authorship published under names all of which are pseudonyms, the identity of any of the authors, is disclosed publicly by the author and the publisher or is otherwise established to the satisfaction of the Copyright Board by that author or his legal representatives.

54. (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right:

Provided that if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for believing that copyright subsisted in the work, the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement and a decree for the whole or part of the profits made by the defendant by the sale of the infringing copies as the court may in the circumstances deem reasonable.

(2) Where, in the case of a literary, dramatic, musical or artistic work, a name purporting to be that of the author or the publisher, as the case may be, appears on copies of the work as published, or,

Definition.

Civil remedies for infringement of copyright.

in the case of an artistic work, appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceedings, in respect of infringement of copyright in such work, be presumed, unless the contrary is proved, to be the author or the publisher of the work, as the case may be.

(3) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the discretion of the court.

Protection
of separate
rights.

55. Subject to the provisions of this Act, where the several rights comprising the copyright in any work are owned by different persons, the owner of any such right shall, to the extent of that right, be entitled to the remedies provided by this Act and may individually enforce such right by means of any suit, action or other proceeding without making the owner of any other right a party to such suit, action or proceeding.

Author's
special
rights.

56. (1) Independently of the author's copyright, and even after the assignment either wholly or partially of the said copyright, *the author of a work shall have the right to claim the authorship of the work as well as the right to restrain, or claim damages in respect of,—

(a) any distortion, mutilation or other modification of the said work; or

(b) any other action in relation to the said work which would be prejudicial to his honour or reputation.

* * * * *

(2) The right conferred upon an author of a work by sub-section (1), other than the right to claim authorship of the work, may be exercised by the legal representatives of the author.

Rights of
owner
against per-
sons posses-
sing or deal-
ing with
infringing
copies.

57. All infringing copies of any work in which copyright subsists, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of possession thereof or in respect of the conversion thereof:

Provided that the owner of the copyright shall not be entitled to any remedy in respect of the conversion of any infringing copies, if the opponent proves—

(a) that he was not aware and had no reasonable ground to believe that copyright subsisted in the work of which such copies are alleged to be infringing copies; or

(b) that he had reasonable grounds for believing that such copies or plates do not involve infringement of the copyright in any work.

58. Notwithstanding anything contained in the Specific Relief Act, 1877, where the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction to restrain the construction of such building or structure or order its demolition.

Restriction on remedies in the case of works of architecture.

(2) Nothing in * section 57 shall apply in respect of the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work.

59. Where any person claiming to be the owner of copyright in any work, by circulars, advertisements or otherwise, threatens any other person with any legal proceedings or liability in respect of an alleged infringement of the copyright, any person aggrieved thereby may, notwithstanding anything contained in section 42 of the Specific Relief Act, 1877, institute a declaratory suit that the alleged infringement to which the threats related was not in fact an infringement of any legal rights of the person making such threats and may in any such suit—

Remedy in the case of groundless threat of legal proceedings.

(a) obtain an injunction against the continuance of such threats; and

(b) recover such damages, if any, as he has sustained by reason of such threats:

Provided that this section shall not apply if the person making such threats, with due diligence, commences and prosecutes an action for infringement of the copyright claimed by him.

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60. (1) In every civil suit or other proceeding regarding infringement of copyright instituted by an exclusive licensee, the owner of the copyright shall, unless the court otherwise directs, be made a defendant and where such owner is made a defendant, he shall have the right to dispute the claim of the exclusive licensee.

Owner of copyright to be party to the proceeding.

(2) Where any civil suit or other proceeding regarding infringement of copyright instituted by an exclusive licensee is successful, no fresh suit or other proceeding in respect of the same cause of action shall lie at the instance of the owner of the copyright.

Jurisdiction
of court over
matters
arising under
this Chapter.

61. (1) Every suit or other civil proceeding arising under this Chapter in respect of the infringement of copyright in any work or the infringement of any other right conferred by this Act shall be instituted in the district court having jurisdiction.

(2) For the purpose of sub-section (1), a "district court having jurisdiction" shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, or any other law for the time being in force, include a district court within the local limits of whose jurisdiction, at the time of the institution of the suit or other proceeding, the person instituting the suit or other proceeding or, where there are more than one such persons, any of them actually and voluntarily resides or carries on business or personally works for gain.

CHAPTER XIII

OFFENCES

Offence of
infringement
of copyright
or other
rights con-
ferred by
this Act.

62. Any person who knowingly infringes or abets the infringement of—

(a) the copyright in a work, or

(b) any other right conferred by this Act,

shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

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Explanation.—Construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work shall not be an offence under this section.

Power of
police to
seize
infringing
copies.

63. (1) Where a magistrate has taken cognizance of any offence under section 62 in respect of the infringement of copyright in any work, it shall be lawful for any police officer not below the rank of sub-inspector, to seize without any warrant from the magistrate, all copies of the work wherever found, which appear to him to be infringing copies of the work and all copies so seized shall, as soon as practicable, be produced before the magistrate.

(2) Any person having an interest in any copies of a work seized under sub-section (1) may, within fifteen days of such

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seizure, make an application to the magistrate for such copies being restored to him and the magistrate, after hearing the applicant and the complainant and making such further inquiry as may be necessary, shall make such order on the application as he may deem fit.

64. Any person who knowingly makes, or has in his possession, any plate for the purpose of making infringing copies of any work in which copyright subsists shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Possession of plates for purpose of making infringing copies.

65. The court trying any offence under this Act may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be * * * * * delivered up to the owner of the copyright.

Disposal of infringing copies or plates for purpose of making infringing copies.

* * * * *

66. Any person who—

(a) makes or causes to be made a false entry in the Register of Copyrights kept under this Act, or

(b) makes or causes to be made a writing falsely purporting to be a copy of any entry in such register, or

(c) produces or tenders or causes to be produced or tendered as evidence any such entry or writing, knowing the same to be false,

Penalty for making false entries in register, etc., for producing or tendering false entries.

shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

67. Any person who—

(a) with a view to deceiving any authority or officer in the execution of the provisions of this Act, or

(b) with a view to procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder,

Penalty for making false statements for the purpose of deceiving or influencing Registrar or other officer.

makes a false statement or representation knowing the same to be false, shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

68. (1) Where any offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for, the

Offences by companies.

conduct of the business of the company, as well as the company, shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of persons; and

(b) “director” in relation to a firm means a partner in the firm.

Cognizance
of offences.

69. No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this Act.

CHAPTER XIV

APPEALS

Appeals against certain orders of magistrate.

70. Any person aggrieved by an order made under sub-section (2) of section 63 or section 65 may, within thirty days of the date of such order, appeal to the court to which appeals from the court making the order ordinarily lie, and such appellate court may direct that execution of the order be stayed pending disposal of the appeal.

Appeals against orders of Registrar of Copyrights and Copyright Board.

71. (1) Any person aggrieved by any final decision or order of the Registrar of Copyrights may, within three months from the date of the order or decision, appeal to the Copyright Board.

* * * *

(2) Any person aggrieved by any final decision or order of the Copyright Board, not being a decision or order made in an appeal under sub-section (1), may, within three months from the date of such decision or order, appeal to the High Court within whose jurisdiction the appellant actually and voluntarily resides or carries on business or personally works for gain;

Provided that no such appeal shall lie against a decision of the Copyright Board under section 3.

(3) In calculating the period of three months provided for an appeal under this section, the time taken in granting a certified copy of the order or record of the decision appealed against shall be excluded.

72. The High Court may make rules consistent with this Act as Procedure to the procedure to be followed in respect of appeals made to it for hearing appeals under section 71.

CHAPTER XV

MISCELLANEOUS

73. The Registrar of Copyrights and the Copyright Board shall have the powers of a civil court when trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) issuing commissions for the examination of witnesses or documents;

(e) requisitioning any public record or copy thereof from any court or office;

(f) any other matter which may be prescribed.

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Registrar of Copyrights or the Copyright Board, as the case may be, shall be the limits of the territory of India.

74. Every order made by the Registrar of Copyrights or the Copyright Board under this Act for the payment of any money or by the High Court in any appeal against any such order of the Copyright Board shall, on a certificate issued by the Registrar of Copyrights, the Copyright Board or the Registrar of the High Court, as the case may be, be deemed to be a decree of a civil court and shall be executable in the same manner as a decree of such court.

Registrar of Copyrights and Copyright Board to possess certain powers of civil courts,

Orders for payment of money passed by Registrar of Copyrights and Copyright Board to be executable as a decree.

Protection of
action taken
in good faith.

75. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Act.

Certain persons to be
public servants.

76. Every officer appointed under this Act and every member of the Copyright Board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of

Power to
make rules.

77. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

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(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules to provide for all or any of the following matters, namely:—

(a) the term of office and conditions of service of the Chairman and other members of the Copyright Board;

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(b) the form of complaints and applications to be made, and the licences to be granted, under this Act;

(c) the procedure to be followed in connection with any proceeding before the Registrar of Copyrights;

(d) the manner of determining any royalties payable under this Act, and the security to be taken for the payment of such royalties;

(e) the form of Register of Copyrights to be kept under this Act and the particulars to be entered therein;

(f) the matters in respect of which the Registrar of Copyrights and the Copyright Board shall have powers of a civil court;

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(g) the fees which may be payable under this Act;

(h) the regulation of business of the Copyright Office and of all things by this Act placed under the direction or control of the Registrar of Copyrights.

(3) All rules made under this section shall, as soon as may be after they are made, be laid before both Houses of Parliament for not less than thirty days and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

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78. (1) The Indian Copyright Act, 1914 and the Copyright Act of 1911 passed by the Parliament of the United Kingdom as modified in its application to India by the Indian Copyright Act, 1914, are hereby repealed.

Repeals, savings, and transitional provisions.

(2) Where any person has, before the commencement of this Act, taken any action whereby he has incurred any expenditure or liabilities in connection with the reproduction or performance of any work in a manner which at the time was lawful or for the purpose of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would, but for the coming into force of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such action which are subsisting and valuable at the said date, unless the person who, by virtue of this Act, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by the Copyright Board.

(3) Copyright shall not subsist by virtue of this Act in any work in which copyright did not subsist immediately before the commencement of this Act under any Act repealed by sub-section (1).

(4) Where copyright subsisted in any work immediately before the commencement of this Act, the rights comprising such copyright shall, as from the date of such commencement, be the rights specified in section 14 in relation to the class of works to which such work belongs, and where any new rights are conferred by that section, the owner of such rights shall be—

(a) in any case where copyright in the work was wholly assigned before the commencement of this Act, the assignee or his successor-in-interest;

(b) in any other case, the person who was the first owner of the copyright in the work, under any Act repealed by sub-section (1) or his legal representatives.

(5) Except as otherwise provided in this Act, where any person is entitled immediately before the commencement of this Act to copy-right in any work or any right in such copyright or to an interest in any such right, he shall continue to be entitled to such right or interest for the period for which he would have been entitled thereto if this Act had not come into force.

(6) Nothing contained in this Act shall be deemed to render any act done before its commencement an infringement of copyright, if that act would not otherwise have constituted such an infringement.

(7) Save as otherwise provided in this section, nothing in this section shall be deemed to affect the application of the General Clauses Act, 1897, with respect to the effect of repeals.

Advantage has been taken of it by the Opposition Parties in Calcutta. So, you find, Sir today that there are about 10,000 displaced persons who had been sent to Bettiah in a place called Howrah Maidan.

There is one thing more which is very very significant. I wish my friend who talked about the Bettiah question yesterday was here this morning. At the same time, Sir, a movement was started within the State of West Bengal. These displaced persons who had been settled there for a number of years were also brought into Calcutta, and their number is about the same, 9,000 or 10,000. So, today you have in Calcutta roundabout 18,000 or 19,000 persons, half of them from Bettiah had half of them from the State of Bengal itself. It is stated, Sir, that we are not giving them food, we are not giving them shelter. But to me, Sir, the amazing thing is this that where the Opposition Parties are the loudest in espousing the cause of the displaced persons who have come from Bettiah, not a word is said about those 9,000 or 10,000 persons who have moved from within the State and have come to Calcutta and are living in the same conditions. Unfortunately, Sir,—and possibly fortunately too, Sir, because I have been associated with the rehabilitation movement from the very beginning—though in the West this problem had been dealt with at a human level, there in the East a number of political parties come into the picture, and to the rehabilitation problem even political colour is given. I am sorry to say, Sir, that an unfortunate propaganda was launched in the Bettiah Camp itself and all sorts of hopes were raised by some of the mischief-mongers to persuade those people to come to Calcutta in the hope of their being rehabilitated in their *Matrabhoomi*. That was the word used, Sir. They were told "Bengal is your *Matrabhoomi*; no other place is your *Matrabhoomi*; come back to Bengal; we want you there, and we will see that relief and rehabilitation

assistance is given to you." I wish to submit, Sir, to you, and through you to the House that a refugee—I concede—being a victim of unfortunate circumstances, has the right to call upon the Government to give him every possible assistance in the matter of relief and rehabilitation. But as a Minister, Sir, and being a refugee myself, I cannot concede this right to a displaced person that he should demand to be settled in a State of his own choice. Rehabilitation has got to be done according to a planned programme and on a phased basis. The State of West Bengal has already reached the saturation point and today there are more than 31 lakhs of displaced persons there and there are no obvious chances of any vacuum being created either in the reclamation of lands or in the employment sector. Well, I am sorry, Sir, for these unfortunate persons who have been duped.

Two things, Sir, I wish to submit in the end. Firstly, as far as I and my Ministry are concerned, when these displaced persons go back to Bettiah, we shall receive them with open arms. I will see that the past is forgotten and they are given every possible facility in the matter of their rehabilitation in that State. Secondly, Sir, I may also state categorically that as long as they go on lying in the streets of Calcutta and creating a problem which is more political than human, there is nothing that I shall be able to do in the matter. And thirdly, Sir, it is stated that the conditions in the Bettiah Camp are intolerable. I beg to extend an invitation, Sir, to every Member of this House, whether he or she is sitting on this side of the House or on the opposite side of the House, and if he or she likes to visit Bettiah, I shall see that all normal facilities are provided to him or her so that he or she can see things for himself or herself. Thank you, Sir.

THE COPYRIGHT BILL, 1955

THE MINISTER OF STATE IN THE
MINISTRY OF EDUCATION AND

[Dr. K. L. Shrimali]
SCIENTIFIC RESEARCH (DR. K. L. SHRIMALI): Sir, I beg to move:

"That the Bill to amend and consolidate the law relating to copyright, as reported by the Joint Committee of the Houses, be taken into consideration."

Sir, the House would recall that this Bill was introduced in this House in October 1955. The motion for referring the Bill to a Joint Committee was moved on the 16th February 1956 and was adopted by the House on the same day. The Joint Committee held thirteen sittings and examined the various witnesses including some foreign witnesses. Among the witnesses who were examined by the Joint select Committee were the representatives of the International Confederation of Authors', and Composers', Paris, the Performing Right Society, London, the British Joint Copyright Council, London, the All-India Centre of P. E. N., Bombay, the Indian Committee for Cultural Freedom, Bombay, and the Indian Institute for Educational and Cultural Co-operation, Bombay and others.

The Bill has been considerably changed as it has emerged from the Joint Select Committee. I shall not take the time of the House in going into the various clauses at this stage. I will only draw attention to the important changes that have been made in the Bill.

Sir, the Select Committee had to take into account various interests. Of course, the main purpose of the Copyright Bill was to give protection to the authors, to the musicians, to the artists and all kinds of people who are doing creative work. But after all, the copyright is a kind of monopoly, and since it is a monopoly, it does evoke criticism from other interest who are also affected. There were various kinds of interests which the Committee had to take into account. There were, of course, the authors, and the Committee did want to protect the

authors. But we had also to take into account the interests of the public. If the monopoly is extended for too long a period, it may affect the general public. Then we had also to take into account the surviving families of the authors. The authors have to depend on the income through their writings and creations, and for most of the people that is the only source of income. Their families also therefore have to depend on that income. Therefore, we had to take into account the families of the authors also. And lastly, we had to take into account the interests of the publishers also. The Committee felt that unless we safeguard the interests of the publishers also, the authors cannot succeed in bringing out good works. The authors themselves cannot become publishers, and therefore, to some extent, we had to safeguard the interests of the publishers also.

Now, Sir, the Committee was faced with these various kinds of interests, the author, the reader, the family and the publisher, and the Committee has attempted to strike a balance between these various conflicting interests. In revising this Bill we received a full measure of co-operation from all the Members, to whichever party they belonged. The Bill was not taken in a party spirit. Everybody was interested in seeing what he could do to release the creative energies of the people in this country. It was in that spirit that the whole approach was made and I must say that the Bill as has emerged is a considerable improvement on the Bill which was introduced in the House.

I would draw attention to the principal changes that have been made in the Bill. The first is with regard to the term of copyright. The House would remember that in the original Bill we had provided that the term of copyright should be for the life of the author and 25 years after his death. Now the main purpose with which the period was curtailed in the original Bill was that we thought

that unlimited monopoly right might work adversely against the interests of the general public and that a period of 25 years was enough to safeguard the interests of the author and his family. But in the Joint Committee the authors felt strongly that that was inadequate and therefore I willingly accepted the amendment and have extended the period for the life of the author and for 50 years after his death. There were two main reasons which weighed with the Committee in coming to this decision. Firstly, even if we had kept 25 years for the Indian authors, we were bound to keep a period of 50 years for foreign authors because India is a member of the Berne Convention. That would have created discrimination between the Indian authors and the foreign authors. Secondly, the Committee felt that authors in India are not rich people. They don't have large property and therefore it would be desirable to extend that period and I am happy to say that there was unanimity with regard to that provision.

Then there was the question of re-assignment of copyright. The House would remember that in clause 18 of the original Bill the authors were given the option to re-purchase the copyright after 7 years and before 10 years of the date of the assignment of their works. In our country very often authors have to part with their works under very difficult circumstances. They part with their work to a publisher for practically nothing. There is no choice before them. Now the intention behind the original clause was that after a period of 7 years and before 10 years, if the author was in a position to take back that work, he should be given the opportunity for re-assignment. This point was very thoroughly discussed in the Joint Select Committee. But the general opinion was that this clause of re-assignment may work against the authors themselves. The publishers will not come forward to accept the works of the authors if they felt that after a period of 7 years

they were going to lose their right of monopoly. We have to remember that the publisher also makes an investment and he has to advertise for the book and he puts in a lot of labour in the initial stages in order that the book might be sold. All the labour that he puts in or the money he invests will be done in the first few years. If the publisher knows that after a period of 7 or 10 years he was going to lose the book, naturally he would not be interested in making that investment. Therefore the Committee felt that this clause might work against the authors themselves. Though at the face this clause seemed to be working in the interest of the authors, it would really work against their interests. Therefore the Committee has deleted this clause.

Then with regard to registration of copyright, the original Bill had provided for the registration of the work with the Registrar of Copyrights. The registration was also voluntary but according to the original Bill no infringement proceeding could be instituted unless the work had been registered with the Registrar. The Committee felt that this kind of formality may lead to unnecessary hardships to authors. Therefore in the revised Bill, registration has been made absolutely voluntary.

Then there is also a provision for compulsory licence. The original Bill had provided that the compulsory licence would be granted by the Registrar of Copyrights. The Committee felt that since this was an important matter—granting of compulsory licence—it should be done only by the Copyright Board and on certain specific conditions. The first condition is that the compensation shall be paid to the owner of the copyright. Secondly, the licence shall be granted only if the public interest demands such a grant. These were the two conditions which have been laid down for compulsory licence.

With regard to translation rights, in the original Bill the right of translation was co-extensive with the

[Dr. K. L. Shrimali.]

term of copyright, that is, for a period of 25 years. But in the modified Bill since the normal term of copyright is for the life of the author and 50 years after his death, it was considered desirable that as regards translation of works, it should not be co-extensive with the term of copyright. The main reasons which weighed with the Committee were that since in our country there are various kinds of languages and we are naturally anxious that culture and knowledge should be disseminated as quickly and as widely as possible, therefore, as regards the translation right is concerned, that has been kept only for a period of 10 years from the date of the publication of the work.

That is the provision which has been made in the revised Bill. We are only restoring the *status quo*, that is, if an author fails to bring out a translation within a period of ten years, the work goes to the public domain and it can be translated without infringing the copyright. As I said earlier, if we accept this provision, this will bring about greater dissemination of knowledge in this country and will bring about cultural unity.

DR. W. S. BARLINGAY (Bombay): May I ask one or two questions of the hon. Minister?

DR. K. L. SHRIMALI: May I just finish it?

With regard to the ownership of copyright, the fundamental principle of copyright is that a work belongs to the person whose intellectual product it is but even authors cannot have an absolute right. There are some limitations under which authors work and we have to take into account those limitations. Sometimes, an author may be with a newspaper proprietor and if, during the period of his employment, he produces certain work, then he does not enjoy absolute right. Therefore, that copyright has been split into two parts. The newspaper proprietor gets the

right to publish it in the newspapers and magazines while the author retains other rights of his works, such as, publication in the form of book, etc. Here again, the Committee tried to strike a balance between the rights of the author and the rights of the proprietor. We have done everything that is possible to safeguard the interests of the author by giving absolute freedom of contract. The author of his own free will can opt out by contract and it is hoped that through this clause it will be possible for the authors to get a fair deal and reasonable return for the work from the publishers.

This Bill envisages the establishment of a Copyright Board to discharge certain statutory functions. For the proper functioning of this Board, it is necessary that the body should be absolutely impartial. It has, therefore, been decided that the persons who are appointed to this Board must be men of integrity and must be independent. It has also been made clear that the members of the Board should not take part in any proceedings of the Board in matters in which they have some vested interest. To ensure full impartiality, it has also been decided that the Chairman of the Board will be a Judge of the High Court or of the Supreme Court and in this way the impartiality and independence of the Board is ensured. Since our country is vast, it is impossible for the Board to function from one place and, therefore, it has been decided that the Board should function through various branches sitting in different places. The jurisdiction of the Board has been divided into various zones which correspond to the zones constituted under section 15 of the States Reorganisation Act.

There are certain acts which are not to be considered as acts of infringement of the copyright. Certain important additions have been made to the original clause 54 and the most important one is that the reproduction of published works in any publication prepared by the Secretariat of

a Legislature for the exclusive use of the Members of the Legislature is exempt from the provisions. Very often Parliament has to prepare brochures for the use of the Members and it has been decided that these should not be considered infringements since they are brought out entirely in the public interests. Then comes the making of records of works if such records have been previously made by licence. This will also not constitute an infringement. The translation in any Indian language of an Indian work after the expiry of ten years from the first publication of the work will not be considered as infringement. I have already dealt with this clause. We have also given right to the educational institutions to reproduce the works of an author while the teacher is giving instructions in the class room. It has also been further provided that the performance of any work in the course of any activity of the educational institution shall not constitute an infringement of copyright. Of course, the audience must be restricted to the students and the members of the staff and the guardians. This provision was considered necessary as it would help in the development of cultural activities in our country. We have also given facilities to clubs by permitting the performance by amateur clubs or societies if it is given before a non-paying audience or for the benefit of religious or charitable institutions. I hope that this provision will also help in propagating culture in our country.

Now, Sir, these are the main changes that have been introduced by the Joint Select Committee of both the Houses and I do hope that the Members would think that the Bill, as it has emerged from the Joint Select Committee, is a distinct improvement on the previous Bill which was introduced here.

Thank you, Sir.

MR. CHAIRMAN: You wanted to ask some questions, Dr. Barlingay.

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DR. W. S. BARLINGAY: Yes, Sir. I want to ask one or two questions by way of clarification.

With regard to the right to translation, I should like to ask whether this is not a right to property and, if it is a right to property, is it not necessary that, as far as possible, all such rights should be uniformly dealt with, that is, whatever rules apply to rights of property ought to apply to translations because that is a piece of property. That is one. The second is with regard to inheritance. I understand that after a man is dead, the rights will continue on his work upto 25 years.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Fifty years.

DR. W. S. BARLINGAY: I am sorry, fifty years. Why should there be a restriction of this sort at all? Why should not the rule be common for all property?

DR. K. L. SHRIMALI: This is an interesting point. I do not remember the exact place where this was discussed in the court in the United States, but I think the Judge was Holmes—I am only saying this from memory at the present moment—and he said that it was wrong to think that all properties are of the same kind; copyright is not the same thing as landed property. If an author creates something, it is in the interests of the people. After all, no writer can function unless there are people who can read his work and, therefore, they are related to each other. Therefore, the Judge in his note of dissent said that it would be wrong to think that the work of an author is the same thing as landed property.

SHRI P. N. SAPRU (Uttar Pradesh): The point is, why should there be a distinction made between an original one and a translation. So far as the original is concerned, it is fifty years

[Shri P. N. Saprú.]

and the period for translation is ten years. The question is: What is the rational principle behind this distinction? Why is translation regarded as not constituting an infringement of a person's copyright? I remember a case, Sir,.....

MR. CHAIRMAN: No speeches now; speeches will come at a later stage. You can only ask questions.

SHRIMATI T. NALLAMUTHU RAMAMURTI (Madras): In the matter of right, whether copyright or property right, I think it should be equalised; also with regard to translation a man's intellectual gifts should go on to his descendants, as he willed it, and he expects them to continue for any amount of time, till eternity. Why should you differentiate between the right to property and the right to copyright of the coming generations? The family in either case should enjoy it.

MR. CHAIRMAN: Motion moved:

"That the Bill to amend and consolidate the law relating to copyright, as reported by the Joint Committee of the Houses, be taken into consideration.

[MR. DEPUTY CHAIRMAN in the Chair.]

SHRI RAJENDRA PRATAP SINHA (Bihar): Mr. Deputy Chairman, even at the risk of being accused of self-praise I would like to pay my tributes to the collective wisdom of the Joint Committee which went into this measure very thoroughly and exhaustively and which has transformed this Bill, which was regarded as a retrograde measure by the authors and cultural societies all over the world into a measure which, I am sure, will not only be welcomed by the authors all over the world but which is befitting this ancient land of hoary civilisation. Sir, I am sure that this measure will be a beacon light for the various countries of the Berne Union who may have, like us, to revise their Copyright laws in order to

bring them in conformity with the Brussels text of 1948.

Sir, I would also like on this occasion to record my great sense of appreciation for the vision and the great depth of feeling and understanding shown by the hon. Minister in charge of this Bill in the Joint Committee in order to appreciate the viewpoints of the authors particularly, and of the public generally. I am sure, Sir, that without this co-operation the Joint Committee could not have achieved what it has done today in presenting to this House a monumental piece of legislation, which would preserve not only our cultural traditions but, I am sure, it will give a great impetus to the cultural and mental activities in this country. Sir, intellectual endeavours of the authors of literary, musical, dramatic and scientific works are not only the pillars of civilisation, but they are the springs from which flow and from which have flown civilisations throughout the course of human history. The State, therefore, Sir, and particularly the Legislatures have a particular responsibility to create conditions in the society, such that these intellectual endeavours are carried on freely, fearlessly and independently by the authors in the country. Sir, the authors play a spiritual and mental role which confers profound benefit on the whole humanity and which is the decisive factor in shaping the course of civilisation and therefore, Sir, authors must receive the greatest protection at the hands of the State.

Sir, copyright has been defined by an eminent jurist as "the right conferred by law on authors and other creative artists to control the reproduction, sale or performance of their work." And therefore, Sir, it is said that much depends upon how we view the copyright that will lead to the promotion of culture and civilisation in any period of human civilisation. The author says, Sir: "Properly understood and wisely handled it may at the same time be a powerful stimulus to creation and a means

of increasing the flow of information and ideas. Misunderstood, and with its true purposes lost sight of, copyright can become a limitation on creation and a barrier to free interchange and expression."

Sir, the Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations on the 10th December, 1948, and article 27 of this Declaration of Human Rights reads thus: "Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author." It also says in another article that "everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits."

Therefore the whole notion of copyright is based on the claims of two different parties namely, the author and the society. Now the best system of copyright law will be that which harmonises these two conflicting interests, as has been very rightly pointed out by my Hon'ble friend, Sir, the rights of the author and of the society. I must say that the Joint Committee was guided by these high principles and if you examine the provisions of this Bill you will find that the whole essence of the Joint Committee's recommendations is that they have endeavoured to harmonise these two conflicting rights and interest to further the cause of culture and civilisation.

Sir, another aspect of the Copyright Law is its international aspect. Although the work of a mind draws certain important elements from the language and traditions of the different countries, it bears a universal character and therefore it easily crosses frontiers. The work of a mind does not necessarily attach itself to any objective element in the society or in the country and therefore its passage from one country to

the other across the frontier is very easy. With the improvements in technological methods for the production, reproduction and adaptations and so on and also with the vastly changing modes of communication between countries the international aspect of the copyright question has taken a very important character. Sir, efforts have been made since the middle of the last century to evolve international conventions in order to safeguard the rights of authors of different lands and in different countries and the oldest convention is the Berne Convention which was concluded in the year 1886 with 10 members and now it has 43 members and we are a party to this Convention. Now, this Convention has been modified on several occasions and the last modification of this Convention was done in the year 1948 which is popularly known as the Brussels Text of the Convention. Now, you will remember that the Parliament of India passed a resolution that we should become one of the signatories to this Text. We could not do so unless our laws—the Copyright Laws—were brought in conformity with the Brussels Text. I am aware of the fact that there is a provision in this Text by which any contracting country can have different provisions for their own nationals in respect of copyright matters other than the Convention provisions. And therefore my hon. friend referred to the two sets of laws prevailing in a country but it is my view—and my view is shared by a large number of authors in different parts of the world—that the whole purpose of these Conventions would be defeated if countries after countries start deviating from the Conventions and if they begin to have for their own nationals provisions other than those adumbrated in the Conventions. Therefore it is my submission that it should be our endeavour to bring our Copyright Law in line with the Convention—the Berne Convention—to which we are a signatory. So, it has been the endeavour of the Joint Committee to bring

[Shri Rajendra Pratap Sinha.]

this law in line with the Berne Convention and the popular Brussels Text of 1948 and it is only in a very few respects to which I shall presently refer, that they are not in line with the Berne Convention and I shall plead before this House that we should amend the provisions of this Bill in order to bring them in line with the Berne Convention.

Sir, I am entirely in agreement with the points raised by many friends in this House by way of seeking clarification from the hon. Minister in respect of the translation rights. You will find that in the original Bill it was provided that the translation rights would be co-extensive with the copyright period which of course was 25 years. Now what the Joint Committee has done is that they have extended the *post mortem* period from 25 to 50 years but have gone back upon the provisions of the Bill and curtailed the translation rights from the co-extensive period to only 10 years from the date of publication. If you will refer to my note of dissent on page xix you will find that I have stated that what is proposed to be done is against both the Brussels Text and the Universal Copyright Convention of 1952. Now, we are a party to both these Conventions and I have already pleaded with you, Sir, that the whole scheme of international conventions will go to pieces if country after country starts making its own laws different from the text of the Conventions. The whole aim of the Conventions is to unify the period of protection, to simplify protection and to make it more effective. That is the purpose of these conventions and my plea is that so far as translation rights are concerned we should accept the provisions as provided in the Berne Convention and in the Universal Convention. Sir, with your permission, I would like to read out these two articles from these two Conventions. Article 8 of the Berne Convention says:

"Authors of literary and artistic works protected by this Convention shall have the *exclusive* right of making and of authorising the translation of their works *throughout* the term of protection of their right in the original works."

Now, that is the Berne Convention and we are one of the very old members of this Convention.

Now, the Universal Copyright Convention, which of course gives lesser protection to the authors than the Berne Convention, says:

"Copyright shall include the *exclusive* right of the author to make, publish and authorize the making and publication of translations of works protected under this Convention."

But the Universal Copyright Convention has provided that in certain circumstances the translation rights could be encroached upon. Now, they have provided five conditions. One of these is that a non-exclusive licence could be given for making a translation, if the translation has not been done previously by the owner of the copyright himself, or if such permission was denied by the owner of the copyright for making the translation. This right is further subject to just and adequate payment of compensation to the owner of the copyright. Now, what we have done is that so far as the right of translation is concerned, we have expropriated the authors or the owners of the copyright without giving any compensation to the owners of the copyright. Now, I claim, I maintain that this piece of legislation runs counter to the whole spirit of our Constitution. It is expropriation. We want to take away their rights without even giving a nominal compensation. You will find that even the Universal Copyright Convention which gives very much lower rights to the authors than the Berne Convention, says specifically that such non-exclusive

licence for translation could be given by the authorities, provided just and adequate compensation was paid to the owner of the copyright.

Now, Sir, the other postulate is this that the man who gets this licence for translation must be capable of rendering a correct and true translation and finally if the author of a particular book has withdrawn that book from circulation, then no right of translation could be given in respect of such books.

Now, if you refer to my amendment No. 14, you will find that I have drafted this amendment on the lines of the Universal Copyright Convention and I would not like to take your time to read out the provisions of this amendment at this stage—which I shall do when you take up clause-by-clause consideration. But I would like merely to remark here that all these conditions are fulfilled if we accept the amendment I have proposed in amendment No. 14. The whole idea is that we have not various languages in this country and we would like to enrich as much as possible all our languages. And therefore we have provided here that any work of our nationals—mind that you cannot translate the work of non-nationals—could be translated in any of the languages mentioned in the Eighth Schedule at the end of ten years of the first publication. That is to say, at the end of ten years of the first publication, so far as the translation right of the copyright is concerned it lapses into the public domain. Now, there is no restriction and I have read with great interest the minute of dissent of my revered friend, Professor Dinkar, as to now the authors feel the pinch and the pain when their works are translated badly, in their own presence, while they are living by people who are not properly authorised, or people who do not deserve to be given this licence of making the translation. I would, therefore, plead that the whole purpose of allowing a work to be translated into the various languages of India will be

achieved by accepting my amendment. The Copyright Board, which will now be a very independent board, presided over by a highly reputed and judicial person is empowered that in case the author does not give permission for the translation of his right after the expiry of seven years—that is what I have proposed—the Copyright Board is authorised to give licence for the translation of his work. And, then, I have made all those safeguards in the interests of the author and in the interests of true translation, correct translation.

Now, Sir, it has been very rightly pointed out by the hon. Minister that the authors in this country—or as a matter of fact, authors all over the world—are not very rich people and the whole purpose of giving protection to the authors' works is that they may receive adequate economic compensation for their work of mind. Now, if you read the evidences that were tendered before the Joint Committee, you will find that the average selling price or the average sale of a book of an author is not more than a thousand copies and the average selling price is not more than Rs. 1-8-0 or Rs. 2. These were the statistics that were given. I am talking of the averages. What a person can get by writing, an average writer can get by writing a book is hardly anything because the total sale proceeds of the thousand copies would be about Rs. 1500. Now, the author is expected to get ten per cent out of that. Now, you deny to him even this ten per cent from the sale of his product of his mind, in other languages by way of translation. Let us take this case. Members of this House generally come into contact with very eminent writers and authors who are Members of this House. Naturally they are eminent writers and their books and other literary works command greater sale and they make money. But we should not be guided by a few rich or good authors, but we

[Shri Rajendra Pratap Sinha.] should take into account the average author. His earning is not more than Rs. 200 or Rs. 250 maximum per book. Therefore, my submission is that it will be a very retrograde step. It will hamper the cultural activities of our country if we accept the provision as mentioned in this Bill. And, therefore, my pleading with this House is that they will accept this amendment No. 14. Shall I continue, Sir?

MR. DEPUTY CHAIRMAN: You may go on till the Railway Minister comes.

SHRI RAJENDRA PRATAP SINHA: Sir.....

1 P.M.

MR. DEPUTY CHAIRMAN: You speak on the main Bill.

SHRI RAJENDRA PRATAP SINHA: All right, Sir. Now I will draw your attention to the period or the term of copyright protection. As you have seen, Sir, it has been raised from 25 years to 50 years *post mortem*, that is to say, the work of an author will continue to be protected under the copyright law fifty years after the death of the author. It was originally proposed that this period should only be 25 years but it was raised to 50 years in order to bring this in line with the Berne Convention. I maintain, Sir, that this is the most important feature of the Convention, and if we do not accept this period of 50 years *post mortem*, I am afraid India will not be permitted to ratify the text of the Convention. If we choose to have a lesser period than 50 years, we shall have to decide to get out of this Convention. It was unanimously decided by both the Houses of this Parliament that we should ratify this Convention. Are we to go back upon that? Taking all these facts into consideration the Joint Committee thought it proper to raise the *post mortem* period from 25 to 50 years. Now, some hon. Members

may consider that by so doing we are giving this monopolistic right to the author, maybe for 80 years—for 30 years the author may be living after the date of his publication, then 50 years after his death, it comes to 80 years. But there are countries which give perpetual copyright, as was suggested by my hon. friend. There are countries which give a very much higher *post mortem* period ranging from 50 to 80 years.

SHRI JASPAT ROY KAPOOR: (Uttar Pradesh): Sir, may we not put off the presentation of the Railway Budget till after lunch? Late performance is not unusual with the Railways.

MR. DEPUTY CHAIRMAN: All right. The House stands adjourned till 2-30 P.M.

The House then adjourned for lunch at three minutes past one of the clock.

The House reassembled after lunch at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

NOTICE OF MOTION TO DISCUSS GOVERNMENT'S REJECTION OF THE FINDINGS OF THE ENQUIRY COMMITTEE OF THE MAHBOOB-NAGAR ACCIDENT.

SHRI BHUPESH GUPTA (West Bengal): Sir, I have given notice of a motion to discuss the question of the rejection by Government of the findings of the Enquiry Committee of the Mahboobnagar accident. Since the hon. Minister is here, we would like to know whether he would have a debate on the subject.

MR. DEPUTY CHAIRMAN: There are Rules and Standing Orders by which points can be raised during the debate in this House. You cannot jump up all of a sudden....

SHRI BHUPESH GUPTA: What I think is....

MR. DEPUTY CHAIRMAN: If you have given notice, it will be considered.

SHRI BHUPESH GUPTA: But we do not know when the hon. Minister.....

MR. DEPUTY CHAIRMAN: You will be intimated what has happened to the papers.

SHRI BHUPESH GUPTA: It is very important, Sir. As you have seen in the papers, the Government's rejection of the findings has created a general dissatisfaction.....

MR. DEPUTY CHAIRMAN: The House has laid down certain Rules and Standing Orders according to which we proceed and in the midst of the session, you cannot spring surprises. You have given notice. (*Interruptions.*) It will be sent to the Government and immediately a reply is received, you will be intimated.

Mr. Jagjivan Ram.

THE BUDGET (RAILWAYS), 1957-58

THE MINISTER FOR RAILWAYS (SHRI JAGJIVAN RAM): Sir.....

DR. R. B. GOUR: Sir, before he starts, I would like to say that the time for laying the Budget was fixed at 1 O'clock.

MR. DEPUTY CHAIRMAN: I think the Government should make proper arrangements to see that the papers are laid at the proper time.

SHRI JAGJIVAN RAM: Sir, I was myself going to express my regret to the House that I could not be present at one O'clock here. The reason was, Sir,—it will not be out of place to mention—that the Budget there started rather late. Instead of my starting at twelve O'clock, I started at forty minutes past twelve because a statement on the food situation in the country was being read. I was free from there at a quarter past one. Immediately I rushed here, but I learnt in the Central Hall that the House had risen.

MR. DEPUTY CHAIRMAN: But I kept the House waiting by about two or three minutes.

SHRI JAGJIVAN RAM: I am sorry for that, Sir, and I think the House will excuse me for it.

MR. DEPUTY CHAIRMAN: I hope that such things will be avoided in the future.

SHRI JAGJIVAN RAM: Well, Sir, sometimes it becomes out of our control, but I will see that one of us—somebody—remains here at that time.

Sir, I beg to lay on the Table a statement of the estimated receipts and expenditure of the Government of India for the year 1957-58 in respect of Railways.

THE COPYRIGHT BILL, 1955—continued.

SHRI RAJENDRA PRATAP SINHA: Sir, I was making out a point that objections have been raised from some quarters that a period of 50 years *post mortem* is too long a period and that it should be curtailed. Often, the works of authors are compared with other works and with other modes of property. Sir, I shall beg of you to consider one point that a man in any other profession—whether it is the legal profession or the medical profession or business—by his endeavours collects much larger sums and vaster property than what even a good author could ever think of amassing. Now, if I am in any other profession I am at liberty to amass any amount of wealth and to enjoy it in perpetuity. I shall enjoy it for years whereas I find that the authors are more maganimous and have voluntarily agreed to limit the period of protection to 50 years after death. That is one of the farms of the Berne Convention.

Another point to be noted is that income-tax laws or Death Duty laws do not make any discrimination

[Shri Rajendra Pratap Sinha.]
between the methods and sources of our earning. The earnings and the wealth of authors are subjected to taxation—to income-tax and Death Duty—in the same manner as wealth or income derived from other sources is taxed. Therefore, if you are prone to equate it with the property right, if you want to equate copyright with the property right, then you will find that authors are more socialistic in their approach and attitude. Now, the only advantage which may be claimed by a shorter period of *post mortem* is that you can have cheaper editions of authors' publications. One argument advanced by the protagonists of a shorter term of copyright is that it will enable books to be made available to the public more cheaply. The remarks of the British Board of Trade Copyright Committee on this point are illuminating:—

"We have received evidence, which we see no reason to challenge that as a matter of general practice publishers do not wait for 25 years from the date of publication, let alone for 25 years after the death of the author, before they issue a cheap edition of works in popular demand."

So, that is the experience in England, one of the biggest publishing countries in the world. In our evidence also, which we could collect in the Joint Committee, it was stated that you could not produce the works of the authors more cheaply than the usual popular cheap editions.

The other view is that authors should have a perpetual copyright, and that copyright should be treated just like any other property right. I know, Sir, that in Portugal, they have a perpetual copyright. But a perpetual copyright of this type would not be in the interests of civilization and hence, the authors have voluntarily agreed to limit this period of protection and they are not motivated by any acquisitive hunger for amassing

wealth by the product of their intellectual endeavour. The enjoyment of these rights must necessarily be by compromise. Therefore I have already said that the whole system of copyright has to be viewed as a harmonising system between the different rights of the author and the society. As you will find, Sir, there has been a tendency now to bring up the *post mortem* period in all the countries of the Berne Convention to fifty years to which we also have now adhered. In Brazil the period is 60 years. In the case of Bulgaria it is the life of the author and the life of the surviving spouse until the children complete 18 years of age. Then there is another country, Liechtenstein, where they have revised from 30 years to 50 years. Sweden and Switzerland have also revised from 30 years to 50 years. Now all those countries are revising their laws in order to bring it to 50 years. Therefore I hope that the House will accept this proposition that the *post mortem* period should be 50 years.

Now, Sir, there is another point that I would like to dilate upon here, and that is, Sir, in regard to clause 17. Now, Sir, some of the people.....

MR. DEPUTY CHAIRMAN: You were a Member of the Select Committee and you have considered all these things.

SHRI RAJENDRA PRATAP SINHA: I have seen some amendments. Sir, there is an amendment.....

MR. DEPUTY CHAIRMAN: If there is any criticism, I can understand the Members of the Select Committee getting up and replying. I think there is a large number of speakers.

SHRI RAJENDRA PRATAP SINHA: Then, Sir, I would like to confine myself to only two points that I would like to raise before I sit down. They pertain to double taxation and transfer of royalties.

I would like to submit, Sir, that the hon. Minister should take up this

question in all the international gatherings in respect of copyright questions. What I mean to say is this. An author's income today is taxed in more than one country. If I am an Indian author and if I derive some income, say, from the United States, then I am taxed both in the United States and in India. This kind of double taxation hampers all literary production. Now, Sir, there is a move on the international plane to come to some agreement by which this double taxation could be avoided. Sir, as far as my information goes, there are two such bilateral agreements. One is between the United Kingdom and France and the other is between France and Belgium. Now under the terms of such a bilateral agreement a British author deriving his income in France from his royalties is not taxed in France but is only taxed in England. Similarly a French author's income from his royalties in the United Kingdom is taxed only in France and not in the United Kingdom. Now for encouraging the works of the author it is very important that such bilateral or multilateral agreements should be arrived at in order to avoid such double taxation. The Government of India should take a lead in this matter at all international conferences and conventions. They should plead for such reliefs in the matter of double taxation. Sir, there is already a move in various countries for having such bilateral or multilateral agreements. What I want is that the hon. Minister and his Ministry should take up this question with other countries so that we may be able to have some relief in the matter of double taxation. Sir, what happens is that this question of double taxation is taken up as a whole with all kinds of income, and the income from literary works, from royalties, is a very insignificant income. If we look at it from the national point of view, the income from business and other sources is very much more than the income from royalties. Therefore this taxation of royalties is lost sight of. The copyright administration in this country should take up this question

independently of the question of double taxation as a whole.

Then, Sir, there should also be similar agreements with regard to the transfer of royalties from one country to another. Oftentimes difficulties are placed in respect of the transfer of such royalties. And here also I would like the Government of India to take a lead in this respect in sponsoring such agreements between the different nations.

Now, Sir, there is one other point which I would like to impress upon the hon. Minister, and that is with regard to the formation of authors' societies. I have seen, Sir, that in many European countries Governments have taken a lead in the matter of formation of authors' societies. I do not mean that the Government should dominate over such societies, but they should give all possible help and assistance for the creation of such societies, because it is such societies alone which can give some meaning and content to the copyright law that we are enacting today. Many of our authors are ignorant of their own rights and they are not in a position to exercise those rights even if they know them. Therefore, Sir, if we set up such societies, they will protect the interests of the authors. Sir, my hon. friend, Dr. Shrimali, is a man of very great vision and ideas. And I request him to examine this question as to how these authors' societies have been organised in other countries and whether it will not be feasible to organise such societies under his aegis in this country. Thank you very much, Sir.

DR. W. S. BARLINGAY: Mr. Deputy Chairman, I am raising with regard to this Bill certain fundamental points, and I shall also with all respect suggest to this House a point of view from which we are to look at this Bill.

Sir, if there is any class of people which has been economically back-

[Dr. W. S. Barlingay.]

ward because it has never received any support either from the Government or from the public, that is, Sir, the class of authors. If we want to look at this Bill properly, we must look at it from this point of view, namely, whether this Bill enhances the economic interests of the authors whose intellectual gifts to the country are really invaluable. That is the proper point of view from which to look at things. Now it seems to me that we are making too much of the so-called socialistic pattern. In a way it is quite true that we owe our all to the society. We derive our inspiration from the society—that is true. But then, after all, a proper balance has got to be maintained between the interests of the individual and the interests of the society and I regret that this balance has not been observed, according to me, so far as this Bill is concerned. I would draw your attention especially to two provisions namely, the provision with regard to translation and the provision with regard to the right of the author or his heirs in the work produced by the author concerned. In the one case the period is 10 years after the publication of the work—that is in respect of translation. That is to say, if a work is published to-day, then after 10 years, neither the author nor anybody else can control the publication of its translation in any manner whatever. The author particularly has no right whatever about that matter.

SHRI KISHEN CHAND (Andhra Pradesh): Only if it is translated and published. If there is no translation done or published, then only he loses but if within a period of 10 years the author translates it and gets it published, he has full right for the said period.

DR. W. S. BARLINGAY: I grant that, I was not referring to that. But my point is this. After all this right to get his work translated is, according to me, a piece of property.

SHRI KISHEN CHAND: You cannot always keep your house empty.

DR. W. S. BARLINGAY: I hope I will be allowed to go on. Now the same is true of every original literary work. In point of fact if there is any piece of property which you can call rather intimately the author's own, then it is this literary work of his. A house, for instance, he may inherit from his ancestors. So far as land is concerned, he usually inherits that from his father or some other ancestors. But so far as literary works are concerned, they are peculiarly and intimately his own. They are his own work or product and therefore he ought to be able to enjoy the fruits of his labour to the fullest possible extent.

Now I would urge that we look at this matter from the point of view of fundamental legal principles which lie at the root of our Constitution. Take article 44 of the Constitution which reads like this:

“The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.”

Now I am not suggesting that this particular article will apply literally to this particular problem that we have now before the House. I am not suggesting that but I do suggest that as far as possible, where you are concerned with a particular piece of legislation, you have to see that it is brought in line with other pieces of legislation with regard to the same matter. Now there is not the slightest doubt that the right to get a work translated or the right to get a work published is a purely personal right—a right to property. It is a sort of property. Now if, for instance, I own a house, my son, my grand-son or any other heir inherits my property as laid down in the Hindu Succession Act or the Indian Succession Act or some other Act in force for the time being. When, for instance, my pro-

perty so far as the property is in respect of land or any other movable or immovable property, is heritable according to the law of the land, I don't see the slightest reason why a distinction should be made so far as this particular property is concerned.

DR. K. L. SHRIMALI: I want to know whether the hon. Member is advocating the principle of perpetual copyright?

DR. W. S. BARLINGAY: Well, all that I am advocating is the uniformity of law—that is all. If for instance, I have got a perpetual right in my house and my heirs are entitled to inherit it, then I don't see the slightest reason why the same right should not exist in my own works, or in the translation of my works. I don't see any reason whatever; unless of course there is some very valid reason for making a distinction between these two kinds of property. I do not think, with all respect to the hon. Minister, that he has succeeded in making a distinction between these two kinds of property. If he does, I will withdraw this objection immediately because I am not wedded to a particular view in this matter but so long as you regard this as a piece of property—whether it is movable or immovable makes no difference in the world—then I suggest strongly that we should have a uniform law for all these various kinds of property and we cannot make an exception in the case of original works or translations.

As I said in the beginning, I want to look at this whole matter from the point of view of the authors. I want to benefit them as much as possible. As a matter of fact they are the poorest people in our society. They are the worst paid, and it does seem to me that the dictum:

अजापुत्र बलिं दद्यात् देवो दुर्बलघातकः
should not apply in the case of authors. If the authors are encouraged properly, if their rights to property are not taken away, then I suggest they will do very very useful work for the

society and they will add to the glory of our society and the country. Thank you.

SHRI PERATH NARAYANAN NAIR (Kerala): Mr. Deputy Chairman, I agree that in certain important respects, this Bill has come out of the Joint Committee is a very much improved form.

3 P.M.

Some of the modifications which have been made in the Bill by the Joint Committee have been referred to by the hon. Minister. Some of them are quite welcome but there are certain modifications made by the Joint Committee in this Bill which are unacceptable from my point of view. I refer to the modifications made in clause 21 relating to the term copyright. The provision relating to first ownership of copyright, I think, requires modification and the definition of the term "Government copyright" also requires modification but before I refer to some of these things, I think, in a general way I must make some reference to the fundamental objections raised by the two previous speakers. Now, this copyright law deals with private property rights, sort of exclusive monopoly rights, and in enacting pieces of legislation in regard to such property rights, we have to be guided by certain considerations. We must realise that we have been rather lie-surely in our efforts to amend the law relating to these subjects. Concepts of property go on changing. At the time when the Berne Convention was there, a certain concept of property prevailed and the Brussels text has undergone revision according to the concepts prevailing in 1947 and the concepts of private property prevailing in 1947 are not the concepts prevailing in the modern world. If that is so in regard to other property rights, then it must be so in relation to the property rights dealing with copyright also. Especially in the matter of rights relating to the literary works,

[Shri Perath Narayanan Nair.]

dramatic works, etc., which go a long way to raise the cultural level of our people, it is absolutely necessary for the proper dissemination of knowledge in our country that there should be some sort of restriction on private property rights. My friend, the previous speaker, was saying, "Is there any distinction made between property relating to copyright and property relating to others?" It is quite clear in my mind that these gifted men, musicians, dramatists, authors, etc., must during their lifetime—and their heirs and successors after them—be allowed to share the advantages accruing to them from out of their works. There is no doubt about that but will you put obstacles in the way of the dissemination of public knowledge, will you place any handicaps in raising the cultural standards of our country? So, in approaching this problem, I think, we must broadly take into consideration the common interests which are involved in this thing. The hon. Minister himself was good enough to explain the interests of the public. Besides, the vital interests of the authors are there, so also the rights of the publishers and the rights of the heirs and successors. We have to strike a golden mean in arriving at a proper settlement or definition of property rights in regard to copyright. I think that the original provision under which copyright would exist for the lifetime of the author and for twentyfive years thereafter was quite reasonable. Especially regarding property rights, we need not take our lessons from Portugal and Britain. Even as my friend the previous speaker had occasion to bring to our notice, concepts are changing and in regard to these changes, I think the modifications suggested by the Joint Committee give overmuch consideration to the interests of the authors and do not give the consideration it deserves to the interests of the general public. For his lifetime, an author must have unfettered rights. There is no question about that but will you extend

those rights to three generations or four generations of heirs and successors? According to Hindu concepts, Varshanthara is twelve years and if it is twentyfive years, it will be two Varshantharas, two generations of heirs and successors, who will get the benefit of the property. If after twentyfive years these literary works are pushed on to the domain of public knowledge, if society would gain so much from it, would we not consider that this twentyfive-year period is good enough and that this fifty-year period is not warranted by circumstances? We are told that this Brussels Convention has fixed this fifty-year *post-mortem* period and that if we do not accept that, there is this possibility that we may have to stay away from that convention. I think the apprehensions are quite without foundation because, if I am informed correctly, the provisions in the Brussels Convention are that they do make provision for different countries to make their own laws in regard to copyrights of their own national authors and I am sure that by the time we are in a position to place this enactment on the Statute Book, the signatories to the Brussels Convention would be thinking of revising the convention because there is such a change occurring in the concept of property throughout the world so that if we fix this period of twentyfive years now, the possibilities are that the other countries of the world would come to our line of thinking. After all, the curtailment of private rights and the enlargement of the public domain has come to be the rule of law and so I have given notice of an amendment that this term of copyright.....

DR. RADHA KUMUD MOOKERJI (Nominated): Is it the Communist view that the limit of property should be twentyfive years?

SHRI PERATH NARAYANAN NAIR: Limit of property according to the Communist view is not what I

am dilating upon now. We know the conditions in India, the conditions of the authors, the position in which they are placed and we also know the position of law in this country as well as in some other countries. We are only contemplating to strike a golden mean and I am suggesting this twenty-five-year period not as an absolute concept of property right held by the Communists.

DR. W. S. BARLINGAY: Why should not that apply to immovable property? I am prepared to agree to that but why should it not apply to immovable property?

SHRI PERATH NARAYANAN NAIR: I would understand his taking objection to the socialist pattern of society but.....

DR. W. S. BARLINGAY: First of all you want to start with the authors and then go on to immovable property. Why not do it the other way about?

SHRI PERATH NARAYANAN NAIR: We have to take action in certain other ways also. When Death Duty comes, we try to increase it and we do it in the case of Income Tax also. It is not that just one fine morning we begin with the authors and their copyrights and curtail them. It is not so. It is inherent in the concept of social status; in all modern democratic concepts private property rights are restricted, fettered to a certain extent. We realise the position of the authors in India at present; they require ample protection, the fullest protection, to enjoy the fruits of their labour and their immediate heirs and successors also must be guaranteed the protection. We only say that the period may not be fifty years after the death of the author but the lifetime of the author and for twenty-five years after that. We make a distinction. That is all. In legislation

relating to private property rights and others, we have to take into consideration the prevailing opinions. We just take a step forward and it is no use calling into question absolute concepts of property of the Communists and all that. That is not the point at issue. Anyway, my own point is that the authors will get ample protection over their works to which they are entitled, if the House will be pleased to accept the amendment which I have given notice of. When I actually move it, I will have occasion to dilate on it again.

The other point I want to refer to is the one that relates to ownership rights. In clause 17 it is laid down that insofar as the employee journalist authors are concerned, unless there be a contract to the contrary, the ownership of the copyright will vest in the proprietor. I think that is not fair to the employee journalists or to the other authors in employ. I do not say that the ownership of the author or of the employee journalist or others must be unrestricted. No, but, under the provision as it stands in clause 17 of the Bill, the proprietor will have unfettered right of reproduction and reprinting, not only in his own paper and in his own magazines but in any other newspaper or in any other magazine. It is not called for and it is ever so difficult for an employee to contract into a right. Now if the position is reversed in that particular clause, if the first ownership is vested in the author and the journalist and if the proprietor is enabled to contract into a right, it would be easier for him because in our present-day employer-employee relations naturally the employees have to depend on their proprietors for so many things and thus they cannot afford to incur the displeasure, even in the slightest measure, of the proprietor. So it would be ever so difficult for him to contract into a new obligation. Now, if it is made the other way about, if the proprietor is to contract into a new right, he can do it, and the employee will

[Shri Perath Narayanan Nair.]
benefit to the extent that adequate compensation will be paid to him. In my opinion clause 17 requires modification in that respect.

Again in regard to Government works, the definition of 'Government work' is given in clause 2 (k). I think it must be enlarged. All works of any department including the Houses and the secretariat of the Houses and the Legislatures, all come under that and enjoy this copyright. Now in these days of democracy, especially relating to proceedings of the Legislatures I want the Minister to clarify the position. Is the right to reproduce the speeches of the hon. Members of Legislatures here and in the States, the right to reproduction of their speeches from the public records, fettered in any way by this measure because, in any proper functioning of democracy, the people, the community at large must know how the representatives conduct themselves in Parliament? They have a right to full knowledge of how they conduct themselves in Parliament, what they speak there, and it is only fair that full right of reproduction without infringing on any copyright must be given to public proceedings in the Legislatures. Again the term of copyright in Government works is also fixed at fifty years. After all Government are not just sellers. They must be more interested in dissemination of knowledge and in the setting of higher standards of culture for the people, and this fifty-year period for Government works, in my opinion, is too great. There are certain minor changes in regard to this fifty-year period in the matter of copyright for some cinematograph films and photographs. What property right will ensue in any ordinary photograph after twenty-five years passes my comprehension. I think even there twenty-five years would be a proper limit.

There are one or two comparatively less important amendments relating to Definitions and other things, and I think I will get an opportunity when we come to the clauses of the Bill. Altogether I welcome this Bill. Only in these vital aspects relating to the period of copyright and relating to the first ownership of copyright so far as the employee journalists and owners are concerned and in regard to the term of copyright in Government works it would be good if the hon. Minister agreed to modify the present provisions. Thank you.

श्री रामधारी सिंह 'दिनकर' (बिहार) :

श्रीमान्, यह विधेयक जब पहले-पहल इस सदन में रखा गया था तो इसकी कई शर्तें बहुत भयानक थीं और वर्तमान कारीराइट कानून में लेखकों का जो ५० साल मरने के बाद तक का कारीराइट है इसको घटा कर उसमें जब २५ वर्ष कर दिया गया तो सारे देश के लेखकों और लेखकों की संस्थाओं में हाहाकार मच गया। प्रायः प्रत्येक अखबार ने विधेयक की निन्दा लिखी, प्रायः प्रत्येक नगर में लेखकों की सभायें हुई और सभा करके लेखकों ने सरकार से अनुरोध किया कि यह अन्याय मत करिये। पी० ई० एन० जो देश की इतनी प्रतिष्ठित संस्था है—देश के सभी बड़े बड़े लेखक और कवि उसके सदस्य हैं—उसने जोरों का विरोध किया और जब देश में बहुत अधिक कोलाहल मचा तो हम लोगों ने साहित्य एकाडमी के तत्वावधान में इस पर विचार किया और हम कुछ लेखक, कुछ संसद सदस्य मौलाना साहब के पास गये, लेकिन जो काम बाहर इतना कठिन मालूम होता था मौलाना साहब के समीप जाने पर वह आसान हो गया। उनको दो मिनट भी नहीं लगे यह ताड़ने में कि देश के लेखक क्या चाहते हैं और उन्होंने कहा कि ऐसा करो कि एकाडमी के अन्दर हम एक

कमेटी बना देते हैं और तुम लोग इसकी छानबीन करके एक छोटी सी रिपोर्ट दे दो। हम उसी में से विचार करके जो रखने लायक शक्तें होंगी रख लगे। उसी दिन एक कमेटी बनी जिसमें गुजराती के लेखक जोशी थे, मामा साहब वरेरकर थे, हुमायूँ कबीर साहब थे, कृपलानी साहब थे और स्वर्गीय मिस्टर लाड थे और इन सभी लोगों ने सारे विरोधों पर ध्यान रखते हुये और जो हम लोगों की जानकारी में दूसरे देशों के कापीराइट कानून हैं उनकी जानकारी रखते हुये—हम लोगों ने—एक छोटी सी फेहरिस्त तैयार की और वह मौलाना साहब के पास भेजी गई, उसके आधार पर इसमें संशोधन आये और उन संशोधनों से देश में आज इस विधेयक के पक्ष में अच्छा वातावरण है। इस विधेयक में दोष तो अभी दो, एक है लेकिन यह विधेयक पहले के विधेयक की अपेक्षा अधिक उत्तम है। मेरा खयाल है इस विधेयक को नमक और तेल का कानून नहीं मानना चाहिये। यह बहुत ही पेचीदा बिल है। इसका बहुत दूर तक असर पड़ने वाला है। इसका सम्बन्ध अब इस बात से समझिये कि प्रवर समिति ने १३ अधिवेशन किये, देश की बड़ी बड़ी संस्थाएँ, साहित्य की, गवाही देने को आई, देश के बाहर से लोग इस बिल के सम्बन्ध में गवाही देने को आये और बहुत ही शांतचित्त हो कर विचार करके इसका संशोधन हुआ है। लेकिन फिर भी अब चूँकि यह विधेयक संसद के सामने है इसलिये एक बात की ओर मैं ध्यान दिलाना चाहता हूँ। चूँकि इसका सम्बन्ध लेखकों, कवियों, कलाकारों, सिनेमा के व्यवसायियों, अभिनेताओं आदि के साथ है इसलिये इस पर बहुत गम्भीरता से विचार किया जाना चाहिये और सबसे बड़ी बात यह है कि ऐसे कानून बनाने के समय हम सरकार से यह जानना चाहेंगे और सरकार को इसका ध्यान रखना चाहिये कि वह देश को कहां लिये जा रही है। लेखक कहां रखे जायेंगे, कवि कहां रखे जायेंगे, कलाकार

कहां रखे जायेंगे ? सिर्फ यह नहीं है कि इस पार्टी के सदस्य ने एक धक्का दिया तो कुछ उसकी बात मंजूर हो गई और उस पार्टी ने एक धक्का दिया तो कुछ उसकी बात मंजूर हो गई। यह बात नहीं है। यह तो सारा प्रश्न है कि हम किस तरह का भारतवर्ष बनाने जा रहे हैं। अगर हमारे मन में यह खोत हो कि साहब जो अधिनायकवादी देश हैं, कम्युनिस्ट देश हैं उनकी परम्परा अच्छी है तो फिर मैं कहूँगा कि यह विधेयक किसी काम का नहीं है क्योंकि यह प्रजातन्त्रवादी देश का विधेयक है और जो पिछले भाई कह रहे थे वह शायद बात ठीक हो क्योंकि मैंने देखा है कि कम्युनिस्ट देशों में कापीराइट की अवधि थोड़ी रखी जाती है। मगर जानते हैं कि उस थोड़ी अवधि का क्या परिणाम है। किसी भी कम्युनिस्ट देश में चले जाइये, आपको दो, तीन दिन के भीतर यह अहसास होने लगेगा कि उस देश में सबसे सुखी लोग वे हैं जो कविता करते हैं, जो नाचते हैं, जो गाते हैं, जो लिखते हैं, जो अनुसंधान और आविष्कार करते हैं क्योंकि उनके साथ सारे राज्य की बहुत सी रियायतें हैं। उन्हें यह जानने में कि वे पैसे का क्या करें, कठिनाई होती है। पिछली बार जब रूस का आन्दोलन उठा कि आत्म-निरीक्षण करो तो लेखकों के ऊपर उन्होंने यह दोष लगाया कि तुम्हारे पास रुपया इतना है कि समुद्र के किनारे मकान रखते हो, विलास की जिदगी बिताते हो और जनता से तुम्हारा सम्पर्क टूट गया है। मेरा खयाल है, इस देश के लेखकों के अथवा किसी भी परिस्थिति के देश के लेखकों के ऊपर यह चार्ज नहीं लगाया जा सकता। और यह भी देखिये कि हमारे अपने देश के लेखक बहुत ललचाते हैं कि यहां भी कम्युनिस्ट देशों वाली बातें हो जायें। पच्चीस वर्ष तो कौन कहे, आज ही से, जिस दिन से हमारी रचना प्रकाशित हो, वह मा० डाक्टर श्रीमाली के कब्जे में चली जाये। हमको उसका एक पैसा नहीं

[श्री रामधारी सिंह 'दिनकर']

चाहिये । हमको कापीराइट लेकर क्या करना है ! हम जानते हैं कि हमको वह लोभ नहीं करना चाहिये । कम्युनिस्ट देशों के लेखकों और कवियों ने पाया तो क्या पाया ? शारीरिक सुख और रुपया तो बहुत पाया, आराम तो उनको सबसे अधिक है; उनके साथ इनकम टैक्स की दरों में रियायतें रखी जाती हैं, लेकिन बदले में उनको देना क्या पड़ा है ? देना यह पड़ा है कि अपनी स्वाधीनता का हनन करना पड़ा है, रेजिमेंटेशन को स्वीकार करना पड़ा है । भाई राज गौड़ हुं रहे हैं । वे समझ रहे हैं मैं शायद अति-रंजन कर रहा हूं । मैं आपसे पूछता हूं कि क्रांति हुये इतने दिन हुये हैं, तो डास्टा-व्स्की, टर्जनीव्ह, जेकोव्ह, टालस्टाय और गोर्की के समान लेखक क्यों नहीं पैदा हुये कम्युनिज्म में । फिर पैदा नहीं हो सकते ।

DR. R. B. GOUR: That could be said of all countries.

श्री रामधारी सिंह 'दिनकर': किसी प्रकार से पैदा नहीं हो सकते । मनुष्य की आत्मा को जहां स्वाधीनता नहीं है वहां सच्चा साहित्य, सच्ची कविता, सच्ची कला कभी पैदा नहीं हो सकती है । मैं अपना एक उदाहरण दूं, मैंने एक अनुभव पाया । एक साम्यवादी देश में मैं गया हुआ था, मैं नाम नहीं लूंगा, कई जगह वहां लेखकों से बातें हुई । हमने कहा कि भाई तुम्हारे रेजिमेंटेशन का क्या हाल है, तुम्हारे मन के चारों ओर लक्षण रेखा खिंच गई या नहीं । तो उस देश के कुछ लेखक थे स्वाधीन चिंतक । खुल कर, जता कर उन्होंने कहा, प्राइवेट डिस्कशन में कहा कि जब यहां क्रांति हुई, यहां भी कोशिश की गई कि हम सरकारी उद्देश्यों के अनुसार साहित्य की रचना करें और हमने भी उत्साह में आकर रचना की । लेकिन, उस रचना को किसी भी वर्कर ने, किसी

भी मजदूर ने या दूसरे आदमी ने, नागरिकों ने, पढ़ना न चाहा । उस समय रोमांटिक कविता तो लोकप्रिय हो गई, क्लासिक्स का बहुत प्रचार हो गया । हमारी सरकार ने इससे संकेत ले लिया है और संकेत लेकर उसने ढील दे दी है और अब हम फिर स्वतन्त्र पैटर्न पर लौट रहे हैं । उसके बाद कुछ और बात हुई जिन से मालूम हुआ कि बाद को उन्होंने सोचा और कहा कि क्यों पैटर्न बदला । इसलिये मैं कहता हूं कि इस कानून का समर्थन करने या विरोध करने से पहले हमको सोच लेना चाहिये कि हम लेखकों को स्वावलम्बी रखना चाहते हैं या परावलम्बी रखना चाहते हैं । यह तो जरूर है कि समाजवादी ढांचा जो हम तैयार कर रहे हैं, उसमें लेखक उपेक्षित नहीं रहेंगे । लेकिन, आपको मालूम है कि लेखकों का मिजाज क्या होता है ?

अभी इस देश में सरकार न लेखकों के लिये कुछ नहीं किया है । कुछ थोड़े से लेखक रेडियो में आये हैं और जहां तहां प्रान्तीय सरकारों के प्रचार विभाग में आये हैं, कुछ शिक्षा विभाग में आये हैं और संयोग कुछ ऐसा हुआ है कि हममें से कुछ अनेक खिड़कियों में से कूद कर संसद् में चले आये हैं । परिणाम इसका यह हुआ है कि साहित्य क्षेत्र में सरकारी साहित्यकार का नारा लग रहा है । यद्यपि मैं जानता हूं कि इस नारे में सच्चाई अभी नहीं है । रेडियो में जो साहित्यिक आये हैं उनमें से दो एक को मैं अच्छी तरह जानता हूं और यह भी देखता हूं कि सरकार के यहां नौकरी —नौकर तो उनको नहीं कह सकते आप, लेकिन सरकार के यहां वे काम कर रहे हैं और सरकार की आलोचना भी कस कर लिख रहे हैं और सरकार की ओर से उनको कोई तन्वीह नहीं की गई है । यह बहुत अच्छी बात है जो इस बात की सूचक है कि यह सरकार लेखकों की स्वतन्त्रता में हस्तक्षेप नहीं करने

वाली है। लेकिन, जितना कुछ हुआ है उसमें जो आन्दोलन देश में चल रहा है सरकारी साहित्यकार का, उससे आप समझिये एक शंका तो है ही कि अगर लेखक अपना कुछ स्वाभिमान न रखे और सरकार के ऊपर अवलम्बित हो जाय, तो उसकी हालत तो वही होगी जो किसी भी रेजिमेंटेड लेखक की होती है। उसका स्वाधीन चिंतन रुकेगा और धीरे धीरे उसमें वह ताजगी नहीं रहेगी, उसमें वह चिन्मारी नहीं रहेगी जो सरकार को पसंद नहीं आती हो। तो अगर हम प्रजा-सत्ता चलाना चाहते हैं सच्चे मन से, तो पहला काम यह होना चाहिये कि लेखकों को और अखबारों को अधिक से अधिक स्वाधीनता दी जाय और उचित रूप से वे जिसकी पगड़ी चाहें उछाल सके, जिसकी आलोचना चाहें कर सकें। तब तो प्रजा सत्ता बढ़ेगी। और यदि कहीं हमने एक तरफ लेखकों के कापी-राइट पर आघात किया और दूसरी तरफ रोटी बढ़ाई कि अच्छा, जो उधर घटा है इधर ले लो, तो फिर यह प्रतिभा को खरीदने का काम है। पैसे को लेकर इस दुनिया में लोग मरे हैं, इस देश के लेखक भी इस तरह की जिदगी बिताने की अपेक्षा, जहां अपनी रोटी के लिये सरकार और सरकारी आफिसों के मातहत रहना पड़े, समुद्र में जा कर डूब मरेंगे। नौकरी में ज्यादा शान नहीं है। इस भ्रम में मैं नहीं हूँ, चाहे कितना ही लोग चिल्ला-चिल्ला कर कहें। मैंने रेजीमेंटेड देश के साहित्य को देखा है। कहीं कुछ नहीं है। स्वाधीन आत्मा की जो बात है, वह सर्वत्र गायब हो चुकी है। इसलिये हम भारतवर्ष के लोग इस भ्रम में क्यों पड़ें? यह सरकार प्रजातंत्री सरकार है, हम सब लोग प्रजातन्त्र का समर्थन चाहते हैं और इसलिये उचित है कि लेखकों का कानून इस दृष्टि से बनाया जाय कि लेखकों को अधिक से अधिक स्वाधीनता रह सके। सबसे बड़ी स्वाधीनता रुपये पैसे की स्वाधीनता होती है, दूसरी स्वाधीनता नहीं होती।

मंत्री महोदय ने अभी कहा था कि अमेरिका में किसी जज ने यह फैसला दिया कि लेखकों की किताबें जनता पर मुनहसिर होती हैं, इसलिये लेखक का उन पर सर्वाधिकार नहीं हो सकता। पता नहीं, उन्होंने ठीक बात कही या नहीं। लेकिन, जैसी भी बात हो, मुझे सुनकर बहुत हैरत हुई है। घर हम बनाते हैं और दूसरा आदमी किराया लेता है, दूसरे पर हम इनहिसार रखते हैं, लेकिन कहा यह जाता है कि घर पर हमारा अधिकार है। जमीन हम जुतवाने पर लगायें तब भी जमीन पर हमारा अधिकार है, कपड़ा सारा देश खरीदे और सेठ साहब की मिल बनी रहे लेकिन लेखक की पुस्तक सबसे अधिक कांटे की तरह आंख खटकती है। पता नहीं पं० जवाहरलाल नेहरू ऐसे लेखक कितने हैं। एकमात्र लेखक हैं और डा० राधाकृष्णन् ऐसे लेखक कितने हैं, लेकिन लाखों ऐसे हैं जिनकी मरने के बाद तलाशी ली जाय कि क्या छोड़ कर मरे हैं, तो कुछ भी नहीं मिलेगा। यहां तक कि अपनी सम्पत्ति से उनको खाना तक नहीं मिलता है। एक प्याली चाय पी कर धोती बड़िया पहिन ली और एक सिगरेट फूँकी, यह उनकी क्रिएटिव हैविट है। इस तरह की क्रिएटिव लाइफ लीड करके वह रहते हैं। देखिये मैं क्या कहूँ, मैं कहना तो नहीं चाहता था, १५० श्रेष्ठ नाटकों के लेखक मामा साहब यहां बैठे हुये हैं। मुझसे एक रोज कह रहे थे—मेरा कलेजा फट गया कि बस, जीवन में पहले पहल स्वाधीन मैं तब हुआ जब पार्लियामेंट में आया। अधिकार है उस देश को, जिस देश में डेढ़ सौ में से प्रत्येक नाटक उनका खेला गया, ऐसा न हुआ कि नाटक कहीं छिपा रहे, डेढ़ सौ में से प्रत्येक नाटक खेला गया और वे लेखक साहब सारी जिदगी कष्ट झेलते रहे हैं। उस कथा को छोड़िये, भावना में जाने की जरूरत नहीं है। हम मूल अवस्था में आए, है क्या? मैंने अभी कहा हम लोगों ने मौलाना साहब से जो

[श्री रामधारी सिंह 'दिनकर']

प्रार्थनाएं कीं उनमें से अधिकांश प्रार्थनाओं को उन्होंने स्वीकार कर लिया, वे तो दया के सागर हैं। उन्हें एक क्षण भी विलम्ब नहीं लगा। लेकिन एक चीज रह गई है अनुवाद की। अनुवाद के बारे में दो मत हैं। एक मत यह है कि अनुवाद पर मे बंधन अगर हम हटा न दें, उसे स्वतंत्र न कर दें, तो अपने देश में हमारे साहित्य का आदान प्रदान नहीं हो सकेगा। इसमें भी कुछ दम है, ऐसी बात नहीं है कि इस को हम नजर अन्दाज कर दें। एक सिद्धांत तो यह है। दूसरा सिद्धांत हमको यह देखना चाहिये कि अनुवाद से भी लेखक को अगर पैसे मिलें तो क्या बुरा है। उदाहरण मैं आपको देना चाहता हूं। अपने देश में आज जो कानून है, जो अंगरेजों के समय से आ रहा है, उसके अनुसार प्रकाशन के दस वर्ष तक ही अनुवाद का अधिकार लेखक के जिम्मे रहता है, दस वर्ष बीतने के बाद नहीं रहता है। नतीजा क्या हुआ ? शरतचन्द्र चटर्जी देश में जब लोक प्रिय हुए, तो हिन्दी के प्रकाशक टूट पड़े और उनकी प्रत्येक पुस्तक का अच्छे से अच्छा अनुवाद प्रकाशित करके, मैं समझता हूं ५० हजार प्रतियां प्रत्येक पुस्तक की बेची होंगी और शरतचन्द्र जो को एक पैसा नहीं मिला क्योंकि कानून प्रकाशक के पक्ष में था। गुरुदेव की भी यही हालत थी। गुरुदेव के जीवन-काल में उनकी पुस्तकों का अनुवाद हिन्दी में हुआ। आप जानते हैं कि हिन्दी बड़ा भारी जंगल है, इसने कुछ न होता हो तब भी और भाषाओं से अधिक हों जाता है। गुरुदेव की भी पुस्तकें हिन्दी में बिकती रहीं और कोई रोक नहीं हो सकी।

सबसे बड़ी दुःख की बात यह है कि गुरुदेव का कहना था कि मेरी कविताओं का अनुवाद किसी को दूसरी भाषा की कविता में न करने दिया जाय कारण कि एक भाषा

का पद्य दूसरी भाषा के पद्य में ठीक ठीक उत्तरेगा यह संदिग्ध विषय है। हो सकता है कि रवीन्द्र खुद इस काम को बाद में कराने वाले थे लेकिन उनकी इस इच्छा की पूर्ति नहीं हुई। वे जीवित बैठे रहे और उनकी कविताओं का तरह तरह का अनुवाद भारत की सभी भाषाओं में चलता रहा। इसको देखने हुये क्या शिक्षा मिलती है ? शिक्षा यह मिलती है कि अगर रुपये पैसे को अलग रख दें तो सिर्फ लेखक के भाव के कारण, लेखक के सेंटिमेंट की रक्षा के कारण इतना सरकार का धर्म है कि वह इंतजाम कर दे कि जिस अनुवाद को वह न चाहता हो वह अनुवाद न छेड़ें। फिर वही बात हो जाती है कि कम से कम अनुवाद पर उसका अधिकार सारे जीवन भर रहना चाहिये, जब तक वह जीवित है तब तक उसको किसी रचना का अनुवाद स्वतन्त्र रूप से उसकी इच्छा के विरुद्ध कोई न कर सके। और सच पूछिये तो इस विधेयक में जहां क्लॉज ३० है, जहां पर यह है कि अगर कोई लेखक किसी रचना को ब्राडकास्ट होने न देता हो, नाटक में न जाने देता हो, तो उसको हम लाचार कर सकते हैं। वहां भी हमने यह दबाव रख दिया है कि जिस रचना को लेखक न जाने देना चाहे अपने सुयश के होने के लिये, उसके लिये उसको लाचार नहीं करना चाहिये। उसी की समानता पर मैं समझता हूं कि अनुवाद का अधिकार लेखकों को जीवन पर्यन्त तो अवश्य रहना चाहिये।

अब अगर मैं यह कहूं कि लेखक मर जाय और तब जिसका जी चाहे अनुवाद कर ले तो छोटे लेखकों को तो कोई नुकसान नहीं है, लेकिन बड़े लेखक को जहर दिया जा सकता है। न जाने कौन प्रकाशक किस कोने में आंख लगाये बैठा हो कि कब यह मरे और इसकी चीजों को लूटें। तो यह भी एक चीज सामने आ सकती है और इसलिये मैंने एक संशोधन दिया है कि

ऐसा इतिजाम कर दिया जाय कि अनुवाद भी लेखक की इच्छा के विरुद्ध उसके जीवन भर में न हों और यह अधिकार उसके मरने के दस वर्ष बाद तक चलता रहे। लेकिन, सिन्हा साहब, (राजेन्द्र प्रताप जी) ने जो संशोधन दिया है उसको भी मैंने देखा। मान्य होता है कि उन्होंने सरकार की कठिनाई, जनमत की कठिनाई, सारी कठनाइयों को देख कर बड़ी छानबीन के बाद अपना मसविदा तैयार किया है। उनकी लाइसेन्स की पद्धति है जिसमें लेखक की अनुपति भी आवश्यक है और लेखक को थोड़ा बहुत पारिश्रमिक भी मिल जायगा। तो अगर सरकार को यह अच्छा लगे और स्वीकार्य हो तो हम अपना संशोधन वापिस ले लेंगे, नहीं तो हम अपने संशोधन को बहुत उचित संशोधन समझते हैं।

अभी दो, तीन बातें छोटी छोटी और हैं। कानून की दृष्टि से, जैसा कि सिन्हा साहब ने कहा, मुझे भी लगता है कि बर्न कंवेशन के बारे में हम लोग किसी न किसी हद तक अपने वचन दे चुके हैं कि उस पर हम हस्ताक्षर करेंगे, उसके साथ हम रहेंगे। बर्न कंवेशन में सिर्फ चार देश ऐसे हैं जिनके यहां अनुवाद की अवधि दस वर्ष है वे हैं, ग्रीस, आइर्लैंड, आयरलैंड, और जापान। लेकिन मेरा ख्याल है कि इन देशों में भी जो कापीराइट कानून हैं, उन कानूनों का जब संशोधन होने लगे तो फिर उनको भी बर्न कंवेशन के साथ ही आना पड़ेगा क्योंकि वह कवेशन मुख्यतः अनुवाद के लिए है, एक देश से दूसरे देश में अनुवाद कराना, इसके लिए है। उसकी मुख्य धारा को हम अगर बिफल कर दें तो हम उसके सदस्य नहीं रह सकते।

दूसरी बात यह है कि जब हमारे यहां यह कापीराइट का संशोधन चल रहा है तो कई वर्षों से ब्रिटिश पार्लियामेंट भी अपने यहां के कापीराइट कानून के संशोधन के

पक्ष की तैयारी कर रही है और उन्होंने जल्दबाजी नहीं की है। जल्दबाजी तो हमने भी नहीं की। हमको याद आता है कि यह बर्न कंवेशन का प्रस्ताव लेकर इस सदन में बिस्वास साहब आये थे। उस समय हम लोगों ने कुछ ऐसी बात कही थी कि कापीराइट कानून का संशोधन होना चाहिये और उसमें शिक्षा मंत्रालय की तरफ से हम लोगों को आश्वासन भी मिला था कि हम उसे शीघ्र लायेंगे। उसी समय से तैयारी होने लगी यह विधेयक अब हमारे सामने आया है। जल्दबाजी तो हमने भी नहीं की है। तो ब्रिटेन में १९५२ में एक कमेटी बनायी, पार्लियामेंट की कापीराइट कमेटी। उस कमेटी ने भी सिफारिश की है कि हमको कहीं भी बर्न कंवेशन के खिलाफ नहीं जाना है और यह जान कर के हम अपना नया मसविदा तैयार करें। निश्चय ब्रिटेन में भी जो भिन्नता होगी, वह भिन्नता बहुत शीघ्र दूर होने जा रही है।

फिर यह भी लगता है कि हमारी रचनाओं का तो अनुवाद बाहर वाले कर लेगे क्योंकि हमारा कानून तो उनके विपक्ष में नहीं है। सिर्फ हमने इतना किया है कि अपने देश की भाषाओं में, एक भाषा से दूसरी भाषाओं में अनुवाद करने पर कोई प्रतिबन्ध नहीं रखा, दस साल के बाद अगर उसका फायदा उठा कर हमारी रचनाओं का अनुवाद कराना चाहे तो नहीं कर सकेंगे। तो एक तरफ यह बात हो सकती है।

दो, तीन छोटी छोटी बातें और हैं। एक तो है अनुच्छेद ५१ में, जहां कि कहा गया है कि क्या क्या काम ऐसे हैं जिनको इन्फ्रिजमेंट आफ कापीराइट नहीं कहा जायगा; कापीराइट का जिसे हनन नहीं होता है ऐसी कौन कौन सी बातें हैं। उसमें एक बात की ओर मैं आपका ध्यान दिलाता हूँ, वह है पाठ्य पुस्तकों के बारे में। ब्रिटेन में जो किताबें छपती हैं या जो ब्रिटिश कम्पनियां भारतवर्ष में काम करती हैं,

[श्री रामधारी सिंह 'दिनकर']

उनकी किताबों में आपने देखा होगा "एकना-लेजमेंट" का वह एक पन्ना देते हैं और इसके लिये उसमें धन्यवाद देते हैं कि फलों के आभारी हैं। लेकिन भारतवर्ष का कोई प्रकाशक इसकी आवश्यकता नहीं मानता है। आपके बच्चे पढ़ते होंगे, कहीं से उनकी टेक्स्ट बुक उठा कर देख लीजिये। कहीं किसी से पूछने की बात ही नहीं है। पहले से हमारे कानून है कि दो पैसेजेज पाठ्य पुस्तकों में ले लिये जाय तो कापीराइट का कोई अपराध न हुआ। इसका परिणाम यह हुआ कि एक पैसेज २५ पन्नों का, दूसरा पैसेज दस पन्नों का, ३५ पन्ने ले लीजिये... अब मैं और कुछ नहीं कहना चाहता। पिछली बार प्रवर समिति के सामने मैं कुछ सेलेक्शन ले गया था जिसमें एक एक लेखक के दस दस पन्ने, बीस बीस पन्ने ले लिये गये, "दू पैसेजेज" के नाम पर। इसके लिये मैं समझता हूँ कि इसे बोर्ड के ऊपर नहीं छोड़ना चाहिये। कापीराइट बोर्ड बन जायगा तो वह लेखकों को इनलिस्ट करेगा और मैं यह विचारधारा रखना चाहता हूँ कि पैसेज की कुछ परिभाषा रख दी जाय कि १२ लाइन, १५ लाइन या दस पंक्तियों से अधिक नहीं होना चाहिये, ऐसा कुछ लप्पा देना चाहिये कि लोगों को मालूम हो जाय कि लूटने का उनको अधिकार नहीं है। जुलाहा एक गज कपड़ा बुनता है, वह उसका है, वह अपनी बेटी को दे दे या बेच दे। लेकिन मामा साहब एक नाटक लिखें, और वह सारी दुनिया का हो, यह बड़ी शर्म की चीज है। ऐसी चीज से लेखकों को बचाना है। यह लूट बहुत बड़ी लूट है। मैं तो कहता हूँ, मामूली चीज २५ ६० पैसेज भी अगर वह दे दें लेखकों को, तो ऐसे लेखकों को जो प्रसिद्ध हो गये हैं, बड़े हो गये हैं, काफी आय हो जायगी।

दूसरी बात है रजिस्ट्रेशन के बारे में। जब कागज हम लोगों के पास भेजा गया

था तो बिहार के गवर्नर महोदय ने मौलाना साहब को एक पत्र लिखा था कि ये रजिस्ट्री वाले मजबूत आप ले रहे हैं तो लेखक घबड़ा जायंगे। मंत्री महोदय ने कहा कि यह अनिवार्य नहीं है, वैकल्पिक होगा, कम्पलसरी नहीं होगा, आप्शनल होगा। आप्शनल होता है या नहीं, मुझे ठीक पता नहीं। आप्शनल के माने यह है कि जो लेखक रजिस्टर करा लेंगे वे बोर्ड का फायदा उठावेंगे, रजिस्ट्री का फायदा उठावेंगे। जो लेखक रजिस्टर नहीं करायेंगे, उनके लिये शायद सिविल कोर्ट का या दूसरा रास्ता कोई होगा। तो मैं चाहता था कि कोई ऐसा उपाय होता कि रजिस्ट्री आप से आप हो जाती। पुस्तक चली जाय कापीराइट बोर्ड के सामने उसके आधार पर रजिस्ट्री हो जाय। दूसरी कठिनाई मुझे यह मालूम होती है कि शहरों में रहने वाले लोग तो रजिस्ट्री करा लेंगे, लेकिन जो गांवों में रहते हैं उनकी रजिस्ट्री का क्या होगा। लेखक तो घोर रूप से अव्यावहारिक होता है। जिस मात्रा में व्यवहार कुशलता उसके भीतर चलती है उसी मात्रा में उसकी प्रतिभा कुंठित होती है। तो व्यवहार कुशलता उसमें जगाने के लिये कौन जिम्मेदार होते हैं, लेखक का यह सब काम हम कर देंगे? यहां तो बैठें बैठें हम लोग सोचते हैं अरे, पांच ६० फीस रखेंगे, क्या पांच ६० लेखक के पास रजिस्ट्री कराने के लिये नहीं होंगे? कैसे समझावें, हालत इतनी गरीबी की है और दिल्ली इतनी ऊंची जगह है कि यहां से नज़र डालने पर पता ही नहीं चलता है, जैसे काश्मीर के मार्ग में चलिये तो खाई के तल का पता नहीं लगता है। तो यह मुश्किल है। इस दरिद्र देश, बड़े ही अपाहिज देश के लेखक सारे दुर्दशा में पड़े हुये हैं और इससे उनकी कठिनाई बढ़ती है। मैं समझता हूँ कि बिहार के गवर्नर ने बहुत अच्छा काम किया कि मौलाना साहब के सामने यह बात रख दी कि लेखकों की कठिनाई इससे बढ़ेगी।

अब मैं एक बात रखूंगा जिसका इससे कोई खास सम्बन्ध नहीं है।

डा० के० एल० श्रीमाली : यह बात मैं साफ कर दूँ कि जो पुनरावृत्ति बिल की ज्वइंट सिलेक्ट कमेटी में हुई है उससे रजिस्ट्रेशन कराने या न कराने से कापीराइट पर कोई असर नहीं होगा।

श्री रामधारी सिंह 'दिनकर' : अच्छा, एक बात मैं और आपसे पूछ लूँ।

श्री अकबर अली खान : रजिस्ट्रेशन का फायदा क्या होगा ?

श्री रामधारी सिंह 'दिनकर' : रजिस्ट्रेशन अभी चलना चाहिये। बहुत सगड़े जो होते हैं वे नहीं होंगे। रजिस्ट्रेशन का फायदा जरूर है।

एक बात मैं और पूछना चाहता हूँ। प्राविजो टू क्लाज १२:१, लाइन १४, उसमें यह जो कहा गया है कि कापीराइट बोर्ड की शाखाएँ होंगी, तो वह शाखा क्या होगी ? दो बातें हो सकती हैं। एक तो यह हो सकती है कि जब कोई मुकदमा हो तो कापीराइट बोर्ड के पंच विभिन्न ज़ोनों में जा करके पंचायती करें। एक दूसरी अवस्था यह हो सकती है कि सारे एग्जीक्यूटिव कामों के लिये वह अपनी कोई शाखा कायम करें प्रत्येक ज़ोन में। पांच ज़ोनों में पांच शाखाएँ काम करती हों।

(इंटरप्शन)

सिर्फ केसेज के लिये हैं ? मैं समझता हूँ कि अगर सिर्फ केसेज के लिये हैं तब तो खैर ठीक ही है, उसमें कोई बात नहीं है, लेकिन अगर कहीं रजिस्ट्री करने के आफिस या बहियाँ रखने की जगहें हों, तब मैं कहूँगा

कि ज़ोन जो एस० आर० ए० के बने हैं वही ज़ोन हम नहीं मान लें। सरकार अपने हाथ में यह अधिकार रख ले कि वह किसी जगह का ज़ोन बदल भी सकती है। धन्यवाद।

SHRI KISHEN CHAND: Mr. Deputy Chairman, I welcome this Bill. It is a very good Bill. I agree that there should be a Copyright Bill. But there are certain clauses in which the Joint Select Committee has gone to the other extreme and has been a little too liberal. I was trying to think what was the reason why the Joint Select Committee has made such drastic changes in this Bill, and the hon. Member who has spoken just before me let the cat out of the bag. He told us that the entire writing public, the authors of this country, rose up against the proposed Bill and they went on a deputation to the hon. Education Minister and persuaded him to accept the amendments proposed by them. Sir, if we are going to adopt legislation only on the basis of agitation carried on by persons involved in it, possibly the zamindars of this country also would have carried on their agitation and would have insisted that their rights in the property should be allowed to continue. But Parliament does not go by it.

The hon. Member asked another question as to what is the difference between the different types of property. I will try to point out the difference between the different types of property and explain why there should be a distinction in the case of literary works. Sir, in so far as the landed property was used by the zamindars for only collecting the rent, Government has come forward and taken away those rights. In so far as land to the extent of 30 acres which is cultivated by the owner himself is concerned the fruit that he derives from that land is entirely due to his labour and what he gets from owning this land is very insignificant. The entire produce that comes out of it is due

[Shri Kishen Chand.]
to his labour and that land is only a tool. There is a distinction between zamindari and ownership of a few acres of land, and the same distinction comes in here. The author has written his book. He is entitled to certain benefits. He gets some benefits and he ought to get them. But to say that those rights should be eternal, that they should go on continuing for ever because rights in other properties continue for ever, and that the two rights are similar, is incorrect argumentation. I may point out, Sir, that in the case of industries, we have the Industries Regulation Act. It is not the right of anybody to keep any factory idle. You cannot simply say that a man owes a big factory and that he will run it when likes.

PROF. R. D. SINHA "DINKAR":
You make a law that every poet will be writing something every day.

SHRI KISHEN CHAND: The hon. Member has tried to divert my attention by raising an irrelevant question. An author produces, say, one book a year. He may write for ten days only and remain idle for 355 days. Does he get enough remuneration for the work he has put in and for the quality of his work? That is the main question. We do not want that authors should suffer. Sir, he said why was it that in Russia they were not producing such great authors like Tolstoy. I would like to know from him why we are not producing a poet like Kalidass.

PROF. R. D. SINHA "DINKAR":
We have produced poets like Tagore.

SHRI KISHEN CHAND: I will take the case of another country. Have they produced a Shakespeare in England of today? Have they produced a Milton?

AN. HON. MEMBER: Shaw.

SHRI KISHEN CHAND: Opinions differ. To put Bernard Shaw in the same class as Shakespeare, will be a negation of truth, because they are not of the same class. Similarly, are we

producing any Milton these days? Well, examples can be given *ad infinitum*.

डॉ० आर० वें० गौड़ : गालिब कहाँ हैं ?

श्री रमधौरो सिंह "दिनकर" :
गालिब नहीं हैं, जोश तो हैं।

SHRI KISHEN CHAND: It is not fair comparison. Simply to say that because the political life of a country is of a particular nature poets are not being produced there is a fallacy, is wrong argumentation. Because an hon. Member suggested that poets are not being produced on account of the political form of government I have tried to point out that this argumentation is false, that there is no relationship between the type of government and the literature that is produced. There are cycles of civilisation and in that cycle certain great authors are produced, and when the cycle turns, a period comes in the history of a nation when no great author is produced. You cannot blame any structure of society or a political organisation for not producing a great author.

Sir, even in trade matters the poets are always badly remunerated. You will find that other forms of literature earn much larger amounts of money than poetry, in all ages.

SHRI V. K. DHAGE (Bombay):
Edgar Wallace earns much more.

SHRI KISHEN CHAND: He does not write poetry. Milton never earned much out of his poetry, though he is one of the greatest poets the world has ever produced.

Edgar Wallace wrote many novels. Agatha Christie writes a novel in about seven days and she is writing any number of novels. I think she has written about a hundred novels.

SHRI P. N. SAPRU: Who?

SHRI KISHEN CHAND: Agatha Christie. She writes detective novels. I can give you any number of examples of detective novels which are very popular.

MR. DEPUTY CHAIRMAN: Mostly murders.

SHRI KISHEN CHAND: And there are authors earning any amount of money. Hon. Members have mentioned about George Bernard Shaw, H.G. Wells and Somerset Maugham. They are earning a large amount of money. But just saying in this House that our authors are very poor and our poets are not earning anything and trying to gain hon. Members' sympathy is not fair, because in our country, we have been backward in education. Now, that freedom has come to us, our Government is paying full attention to the problem of literacy by introducing compulsory education and adult education and the public is getting more and more educated. You will see that even now, writers of Urdu and Hindi novels—romantic novels in particular—have a very good sale and are earning a fair amount of money. People who can write for the cinema earn a lot of money. I know of several authors who are charging Rs. 10,000 for each play they write for the cinema, and they get that much of money. Simply quoting some third-rate authors in our country and saying that they do not sell more than a thousand copies and therefore, they get only about a hundred rupees a year out of their books and concluding that on account of that, we should be very liberal in our Copyright Bill and give them special privileges which we are denying to other property-holders in this country is most unfair. I submit that education is spreading and in the near future, the Hindi market will become very wide. There will be nearly two hundred million people who will be reading, writing and understanding Hindi and books of value written in Hindi will have a wide circulation.

DR. R. B. GOUR: Proper Hindi.

PROF. R. D. SINHA "DINKAR:" I agree.

SHRI KISHEN CHAND: I do not know what the hon. Member means by 'proper Hindi'. Probably, he means Hindustani. Some hon. Members will think of Sanskritised Hindi as the most popular language because people speaking any of the Indian languages can understand it better. That is a matter of opinion. But, anyhow, at least Hindi has great prospects and to introduce a Bill at this time based on our experience in the past when there was not so much of a reading public and when the authors were not able to sell their books to the same extent as is now, is not fair. We have got to see that in future, these authors are going to have a fairly good sale of their works.

MR. DEPUTY CHAIRMAN: We are not making a law only for Hindi writers.

SHRI KISHEN CHAND: Well, Sir, 'with the right of translation,' it applies to all languages. I was going to add that, with the right of translation in Hindi, every author who is writing in any other Indian language can have his work translated into Hindi and then, he will have exactly the same rights and privileges and the same sphere as for Hindi writers. I agree with you that people writing in certain dialects or in uncommon languages will be at a disadvantage and it is not a fact that books written in every language have a sale.

MR. DEPUTY CHAIRMAN: But you have to protect their rights also.

SHRI KISHEN CHAND: Literature written in the English language has a quick sale. Why is it so? Because the English reading public numbers nearly 300 million and we are very glad that in our country, we can have three hundred million reading public for books written in any of the Indian languages, provided they are translated in the other Indian languages.

[Shri Kishen Chand.]

I will come to the main subject—what should be the duration of this copyright? That has been the biggest bone of contention. I maintain that it is possible that an author may have written a book when he was only 30 years of age because between 30 and 40 is the prime of youth and generally, the best works are produced in this period. If an author produces a book at the age of about 30 and he lives up to the age of 80, he will have 50 years and according to this Bill, another 50 years after his lifetime; that means a period of one hundred years. I would have no objection in giving him a copy-right not for 100 years, but even for two hundred years, but there is the other party involved—the reading public. Now, why do we want to put any restriction in this Copyright Bill? Sir, you will see that when the book comes out as a first edition, its price is very high. I can say that about English books. Any ordinary novel, when it is first printed in England, generally comes out first at 12sh. 6d.

PROF. R. D. SINHA "DINKAR": Has he come across a book in any Indian language whose copyright has expired, which is selling at a lower price than a book of a modern or living author?

SHRI KISHEN CHAND: Sir, the hon. Member has asked me a question. I will require some time to gather the facts for the answer. I suppose there are any number of authors like that. But I am saying about the English practice. The English practice is that the first edition comes out in an expensive form; then the second edition comes out at a slightly cheaper price. I can give the example, for instance, of a text book. You know about Chakravarty's Arithmetic. I do not know whether in your parts Chakravarty's Arithmetic is popular, but in North India, Chakravarty's Arithmetic is very popular. When it was first printed, it came out in a Rs. 3-8-0 edition and it was sold by thousands.

MR. DEPUTY CHAIRMAN: From novels, they have become text-books now.

SHRI KISHEN CHAND: I am answering the hon. Member's query.

Then, subsequently, it came out in a cheaper edition. Now, the result will be that if you give copy-right to a popular author there will be sharper differences between the earnings of a popular author and a non-popular author. A popular author will price his book very high and naturally, he will derive a big share out of it. (*Interruption.*) I could not follow what the hon. Member says.

MR. DEPUTY CHAIRMAN: It is the publishers who fix the price, not the author.

SHRI KISHEN CHAND: Well, the author is the copyright-holder and there are two types of book publishers. One is that the book is brought out entirely at the expense of the author. The other type of publication is where there is a 50-50 sharing of the cost of publication.

MR. DEPUTY CHAIRMAN: I may tell you that hardly any author can afford to do it.

SHRI KISHEN CHAND: I humbly submit, Sir, that I have also been an author myself. I have had several books published. I know exactly the various arrangements about publication. One is that the author bears the entire expenditure. There is another type where 50-50 basis.....

PROF. R. D. SINHA "DINKAR": There are school books.....

(*Interruptions.*)

SHRI KISHEN CHAND: Yes, certainly. But probably, the hon. Member refers to certain third-rate books which nobody wants to read.

(*Interruptions.*)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI KISHEN CHAND: I mean literature, not all literature, but some books written by certain authors. I am trying to make out a distinction that, where the literature is good, there is a good demand for it and there is a good sale and where the book is not good.....

DR. R. B. GOUR: Chakravarty's Arithmetic is not literature.

SHRI KISHEN CHAND: The hon. Member wanted to have an example of a book where the author can fix a high price. Subsequently, when it comes into the open market, the price comes down. I am only trying to show that the natural tendency of an author is.....

MR. DEPUTY CHAIRMAN: You were talking of creative works of art. When he mentioned that, you came down to arithmetic. The textbook has always a sure market. The student has to buy it.

SHRI KISHEN CHAND: Well, I come to scientific books. After all, copyright applies to all books. It applies to scientific books also. In the matter of scientific books, the author naturally cannot expect to get any money. Suppose he writes a book on Higher Physics. Naturally, he will not have a very big sale and the Copyright Bill will apply to it also, as it applies to any other.

DR. R. B. GOUR: Even if a book on science is priced Rs. 20, 30, 40 or 50, a person is obliged to purchase it, whereas in the ordinary literature, you cannot do it; that obligation is not there.

SHRI KISHEN CHAND: It is not a question of obligation.

MR. DEPUTY CHAIRMAN: Analogies do not hold good always; only to a certain extent, they hold good.

SHRI KISHEN CHAND: I am only trying to place before you that in the market, there are good books—whether they are scientific books or non-scientific books—and there are bad books. And we have got to come to the basic ideas in evolving the rules. The basic idea is that the reading public should get the maximum benefit and the interests of the reading public should not be sacrificed. In order to attain that object we want to give a fair period to the author. Sir, in my amendment I have suggested that the period of 100 years, as it will work out under the present rules, is too long a period. It should be either the lifetime of the author or 30 years, whichever is more. Supposing an author writes a book and dies after one year, in that case his children will get 29 years. So, in order to make it uniform I would like to suggest that it should be a period of 30 years or the lifetime of the author whichever is later.

Sir, some objection has been raised with regard to this right of translation. I think the Committee has done it very wisely in adopting the formula that the author will have the right of translating the book within a period of ten years. If he exercises that right of translation and prints it, then he has got the fullest right as applicable to any other book, that means his lifetime plus 50 years. That is the present practice. But if the author does not permit anybody to translate it, nor does he translate it himself or publish it himself, and if he wants to have that right eternally in his possession, I think it will not be fair. It means he is indirectly depriving the people who do not know the language in which the book has been written of enjoying the benefits of that book. If he cannot translate it himself, he can get it translated and get it published. He has got the fullest possible rights, but what right has he got to deprive the public of enjoying the benefits of that book or to deprive the literateurs by not translating that book.....

DR. W. S. BARLINGAY: The State should purchase it.

SHRI KISHEN CHAND: In that case there will be the question of bargaining. The author will say "I will not sell it". (*Interruption.*) Certain amendments have been sent. I suppose some such thing can be fixed that if it is published after ten years, about 10 per cent. of the sale price will be given to the author for a limited number of years, say, about 20 years. That type of suggestion can be made, and I think the hon. Minister may consider it, but I personally think that if the author is really keen to enjoy the benefit from it, he should get it translated and published. There will be no harm in that.

Then, Sir, I come to the question of Berne Convention. An hon. Member laid very great stress on the Brussels Convention or the Brussels Agreement and the Berne Convention. Other countries in the world have different ideas about property. They have got a different outlook on economic matters. They consider that private property is sacrosanct. In our country we are passing legislation for controlling property; we are putting all sorts of restrictions on property. I have pointed out to you, Sir, that zamindari has been abolished. We do not permit that a man may go on owning thousands of acres of land and collecting rent from it. We have taken away that right. Similarly Sir, if in our country we set up a healthy convention by restricting the period to a smaller one, and in the matter of translation in particular, if we do not sign the Brussels Convention or the agreement, it will cut both ways. Our books may not enjoy copyright in other countries and likewise other countries' books will not enjoy copyright in our country. And supposing there is a very good book in Spanish language. The author of that book may not be interested in its translation in an Indian language, and even if some small reward is offered to him, he may not consider it worth while. By not signing the Brus-

sels Convention we will be at liberty to translate other works in our language. I realise that some of our countrymen may lose money, but on the whole our countrymen will benefit by the translations of books in foreign countries and by publishing the books by foreign authors in our language at cheap prices and thus making them available to our reading public. It cuts both ways. If we do not sign the Brussels Convention, we are not going to be losers in both ways. In certain things certain authors may lose money, but on the whole it will be in our interest. So, to offer that as an argument, that because a few years back this House of Parliament has approved the Berne Convention, we should not go back upon it, will not be proper. I do not see any harm there. We passed certain laws in 1948. Now we are revising them and we are changing them. So, that is no argument. The argument should be based on certain fundamental concepts of our society, and as far as our concept of society is concerned, we are fully wedded to the policy of controlling industrial production, factories and housing property. If somebody wants to own ten houses, it cannot be done. (*Interruption.*) In the literary sphere if a man keeps his books unused or if he does not publish them or publishes them at a higher price, he will be depriving the reading public of the benefits of those books.

SHRI J. S. BISHT (Uttar Pradesh): Nobody wanted to read.....

MR. DEPUTY CHAIRMAN: Mr. Bisht, let him finish.

SHRI J. S. BISHT: How does he know that he is depriving.....

MR. DEPUTY CHAIRMAN: Order, order.

SHRI KISHEN CHAND: Sir, this is no argument that Shakespeare was found only by Germans; because the Germans began to admire Shakespeare, therefore Shakespeare became popular in England. It is this type of argument that the hon. Member

wants to advance. It takes some time for literary works to become popular. I do not believe for one moment, that Dr. Rabindranath Tagore became popular because he was a Nobel laureate. There are so many hundreds of authors who never become Nobel laureates and whose books are very popular. Therefore we should not draw the inference that if a person becomes a Nobel laureate, his books will become popular. That does not necessarily follow. There are certain Nobel laureates whose books have never become popular. Therefore it is a wrong argument. (*Interruption.*) The hon. Member just now gave the example of Bankim Chandra Chatterji who never became Nobel laureate and yet Bankim's books have become very popular all over India. They have been translated in Hindi.

(*Interruption.*)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI KISHEN CHAND: Anyhow, Sir, I was trying to point out that in this Bill the period of 25 years has been unnecessarily extended to 50 years. In the original Bill, as it went to the Joint Select Committee, there was only a period of 25 years after the death of the author. That should have been further curtailed to 10 years after the death of the author. Instead of that it has been enhanced to 50 years after the death of the author.

PROF. R. D. SINHA "DINKAR": I am in favour of abolishing all rights provided all the rights of factories are abolished.

MR. DEPUTY CHAIRMAN: Have you finished, Mr. Kishen Chand?

SHRI KISHEN CHAND: Sir, I will say so many things when the amendments come in. But I think when anything touches the pockets of the hon. Members, they immediately start arguing that because something is not done elsewhere, it should not be done here. When a Bill for depriving owners of property comes in, this House will have the fullest right to

express its views and the hon. Members can vote for it. But simply because that Bill is not being brought forward and only this Bill is being brought forward and so it should not be considered on its merits, is not right. If we consider it on its merits under a socialistic pattern of society and in the interest of advancement of knowledge, especially when our country is going to have compulsory education and adult education and the literary public is going to increase in large numbers, it is very essential that we try to bring down the prices of books and restrict the profits of the authors.

DR. NIHAR RANJAN RAY (West Bengal): Mr. Deputy Chairman, I am very much new to this House and am not initiated into the mysteries of parliamentary behaviour. Certain fundamental questions of principle have been raised by one or two speakers so far as this motion is concerned. One of them at least referred to the fact that the hon. Minister's Bill does not make any distinction or it has not been able to make the distinction clear between heritable property—movable and immovable—and property brought into existence by the intellect and imagination. I do not know the philosophical or legalistic difference between different kinds of property but so far as creative and intellectual works are concerned, this question of property or proprietary rights of the author or creator is a new conception in history. Until the invention of the printing press, in fact, not until more recent times personal proprietary and property rights in creative and intellectual works were ever recognised. So far as India is concerned, until the end of the eighteenth century most of our authors were anonymous. The artists of Ajanta, for example, are anonymous. Many of our mediaeval ballads, a large segment of our early and mediaeval literature belong to persons whose names we do not know. In fact we in this world go by certain accepted values and it is too late in the day to ask for proofs, legalistic or

[Dr. Nihar Ranjan Ray.]

otherwise, for defining any differences between property and property. I do not know of other properties but of this property I know—of intellectual and creative property. There is a certain value attached to such property, and throughout the world proprietary rights to such property have only relative significance. Not only those conceptions of property change but the relative value of proprietary rights to intellectual and creative works have also been changing from age to age.

It is a very curious thing in history that since the middle of the nineteenth century, the more the world has been moving left, towards non-recognition of personal proprietary rights to solid material properties—movable and immovable—the more the world has been moving towards right, earning more and more proprietary rights for authors. Fortunately or unfortunately, human beings have to function within the limitations of certain accepted values of contemporary times and we have come to accept the limitations on the recognition of proprietary rights of intellectual and creative works. So when we make certain concessions so far as intellectual and creative works are concerned, these concessions can only have relative value. There can be no absolute rights. I do recognise that there is scope for improvement in this Bill and most of these have been covered by the amendments to which we shall come in due course. I am not going to speak on them at this stage but so far as the basic principle is concerned, since the question has been raised, I felt like addressing these words to you, Sir. To me, it is clear that this is not a question of basic principle, but one of attitudes and of values.

We here, functioning as Members of the Indian Parliament, go—and should go I believe—by Indian values and even though I happen to be a very humble author I do not recognise any

absolute right for authors. They cannot claim any absolute rights and if this Bill gives proprietary rights to them for 25 years after death, that is, for more than one generation after his death, on principle, I do not think, there is anything to quarrel about. The plea of the Berne Convention, the Brussels text, has been raised. It is a very logical plea. The plea of the Universal Copyright Convention has also been raised. That is also a very admissible plea. But to raise it from 25 years to 50 years is a question of detail on which I do believe that the Ministry keeps an open mind. But at the same time let us remember that more than one-third of the world is not signatory to the Berne Convention. The whole of South East Asia is exempt from that. They have not signed the Berne Convention. The Soviet Russia has not signed the Berne Convention nor the Universal Copyright Convention and I do not know of China.

Again as a humble author, I have the experience of my works being translated in Russian without my permission being taken. I read in a Tass agency news that such and such work is being translated in Russian. Nobody cared to take my permission because they are not signatories to the Berne Convention and I cannot question their right. Even if I am deprived or even if I do not derive any benefit, I cannot question it. I know of other authors too whose works have been translated into Russian. They have not got a farthing. I know also of Indian authors whose works have been translated into Burmese and the Indonesian language. They have not been getting a farthing.....

(Interruptions.)

SHRI J. S. BISHT: But that is international brigandage.....

DR. NIHAR RANJAN RAY: I know but whatever hard words you may use, that would not cut ice. I am only stating the facts. So, what I wanted to point out to the House is this that let us not make too much of the Berne

Convention or of the Universal Copyright Convention. I do admit that the rights of authors should be protected and we should protect them to certain reasonable limits. Personally I do feel that one generation after the death of the author is a good enough limit, but if the House do believe that it should be extended for two or three generations, we might admit it. I keep an open mind on that.

There are also certain other things that have been placed before the House but they are all covered by amendments to which we will come in due course. For instance, let us take the rights of translation works. There is no logic and I do not see why such rights should not be co-extensive with those of original authorship. Chaos prevails in India so far as translation is concerned. My friend over there, our well-known poet, Dinkar, has mentioned as to how the works of Sarat Chandra Chatterjee and Rabindranath Tagore were being translated in Hindi and in other Indian languages with the authors and their inheritors knowing nothing. I could cite at least a dozen Bengali authors whose works were translated in Hindi, Marathi and Gujarati without the authors knowing anything about them for two, three, four or five years. Nobody goes out of his way to quarrel with it, knowing that we have been functioning in a very chaotic state up to this moment. But here, perhaps for the first time, a systematic attempt is being made by the Ministry of Education to regularise the whole thing. There might be, as I said, differences of opinion in regard to questions of detail but so far as the fundamental principle is concerned. I do not think we have anything to quarrel with.

Thank you, Sir.

SHRI R. C. GUPTA (Uttar Pradesh): Sir, copyright is a very valuable right to the authors and it is necessary that the rights of the authors should be protected. This piece of legislation does go to protect their rights. The original Bill, to my mind, was not

very satisfactory but the Bill has been amended in a very suitable form by the Joint Select Committee. After examining quite a large number of distinguished persons, the Committee had come to some very important conclusions and these conclusions have been embodied in the amended clauses. I think that in the present form, it is a distinct improvement. It is equally true that the condition of our authors and poets—so far as their financial position is concerned—is really very pitiable. They are victims of all sorts of machinations of the publishers, pirates and so on. This Bill will certainly protect them to a certain extent. I feel that this Bill does not go far enough in protecting the interests of the authors from the publishers and unlimited powers have been given under this Bill to publishers for getting assignments from the authors. It is really the disparity in the financial position of the authors and the publishers that is responsible for the chaotic conditions. The authors do not receive what they ought to receive for the work that they have produced and even undue advantage has been taken at times, by the publishers. This aspect has not been given due consideration so far as the provisions of this Bill are concerned.

Now, a point has been contested here that the rights so far as copyright is concerned are the same as the rights in property. This position cannot be denied but certainly rights differ from property to property and, in my opinion, there should be some distinction in regard to creative or intellectual rights as opposed to rights in other property. Here, the author does produce a work not for himself, not only for making money but for doing good to the general community as well. Therefore, the right of an author in the property (of his work) is certainly of a different variety from a right in property. Therefore, certain limits are necessary and I think that they have been wisely put. The law as it stands today grants copyright for

[Shri R. C. Gupta.]
the lifetime of the author plus fifty years thereafter. The same proposal has been made in this Bill by the Joint Select Committee. I think that this is a happy compromise between the two extreme views.

DR. W. S. BARLINGAY: In this Bill, are we not concerned mainly with the economic value of the copyright?

SHRI R. C. GUPTA: I do not think it is merely the economic value which should be taken into consideration. Government should take into consideration all kinds of interests. There are three interests involved in the production of a work, the interests of the author, the interests of the publisher and the interests of the society. There must be a happy combination of all the interests and some *via media* should be found out so that all interests are satisfied and, to my mind, the provisions of this Bill only put the authors to a little disadvantage so far as their relationship with the publishers is concerned; otherwise, I think it is a very happy compromise that this right should be extended for the lifetime of the author and for fifty years thereafter.

Now, Sir, so far as translation is concerned, I agree with the provisions as they have been embodied in the Bill. I would certainly not have any objection if the power is given to the Copyright Board that in cases where the author is willing to have his works translated into any other language, the Copyright Board should award certain remuneration to the author and this should come from the publisher who wants to translate it.

PROF. R. D. SINHA "DINKAR": That is supporting the amendment of Mr. R. P. SINHA,

SHRI R. C. GUPTA: Yes, to a certain extent. I would certainly not extend the period beyond ten years. My reason is this: If the book produced by the author is worth anything, he

would himself go in for its translation. Either he will induce the publishers or the publishers would go to him for getting permission for translation into other languages. Now, if there is a book which has not been translated or the author has not considered it proper or worthwhile to get it translated in ten years, then it is high time that the dissemination of knowledge should not be prevented further. The publishers should be permitted to translate the particular work of the author into various other languages.

Something has been said with regard to the Berne Convention. I do not know whether we should follow the Berne Convention blindly because, the case of India is entirely different from other countries. Here are hundreds of languages and if the work is produced in one language and is not permitted to be translated into other languages, persons knowing other languages will be deprived of the knowledge which they would have got from the translation of that particular work. The Copyright Act was passed in the year 1914. The objects and reasons which were given in that Bill seem to be very pertinent even now. This particular point has been discussed in sections 1 and 3 of the English Act of 1911. It is said: "The term for which the copyright subsists in translation is the life of the author and a period of fifty years after his death." That was the time prescribed then. "The special linguistic conditions of India render desirable a substantial relaxation of this provision. The languages spoken in India are so numerous and differ so widely that the conditions which prevail cannot be compared with those in most European countries and vernacular translations from English and from one vernacular to another are not only common but serve the usual purpose of disseminating knowledge. Accordingly, translations of works first published in British India are permitted after the expiry of ten years from the date of first publication. However, if within this period of ten years the author himself publishes a translation

of the work in any particular language, the limitation upon copyright prescribed by this section shall not apply to translation into that particular language. This provision is in accordance with the provisions of the Berne Convention."

So my submission is that, so far as the question of translation is concerned, the present provision made in the Bill is quite good and I would not have the slightest objection if certain remuneration is allowed to the author even after ten years on certain conditions by which a licence may be granted to the translator under some provision of this Bill.

Then I would like to say something with regard to clause 19—Mode of assignment. The idea was that no assignment, unless it is registered, should be recognised. Sir, copyright is a right in property and it is intangible property. If the value of an intangible property is hundred rupees or more, then registration under the Registration Act is compulsory. I do not know why this provision has been amended so as to drop the registration for assignment. This will not work in the interests of the author. This will go against the interests of the author because I have come across many cases in which the authors were put to a great disadvantage because, for one reason or another, under the stress of financial difficulties they gave away their writings for a very small amount for which their would not have parted with their works otherwise. If registration is made compulsory, the only question that has to be considered is who would pay the cost—this cost may be enormous. Sir, registration can be made in two ways. Either it can be registered by the Registrar under this measure or you may prescribe that no fee would be charged. I mean, every assignment of the copyright shall be registered with the Registrar without payment of any fee. That is one way to do it. Another way is this that under the Registration Act no fee may be charged. There is a precedent for this

position in an Act of U.P. The ~~Arri-~~cultural Relief Act has been enacted in U.P. and there it has been laid down that only two annas or so will be charged as registration fee.

SHRI AKBAR ALI KHAN: Nominal.

SHRI R. C. GUPTA: Absolutely nominal. So either of these two courses may be adopted and provision made accordingly, but the registration should be made compulsory. It would work in the interests of the author; it will not go against the interests of the author and.....

MR. DEPUTY CHAIRMAN: How will registration alone work in the interests of the author?

SHRI R. C. GUPTA: Registration would so work because he will not be subjected to the sharp practices of the publishers which authors are generally subjected to at the time when they are faced with financial difficulties, immediate financial difficulties, and there are not one or two such cases but many. There are dozens of such cases and Mr. Dinkar pointed out one such case. Shri Narela sold his copyright for five rupees.

SHRI AKBAR ALI KHAN: What the Deputy Chairman wants to know is how registration will save the author.

SHRI R. C. GUPTA: It is because registration takes time. The man gets some time to ponder over. It goes to the registration office. It is just as the cases of ordinary bonds without registration and registered bonds; there is a lot of difference between the two. The sharp practices are not so very common in the case of registered documents as they are in the case of unregistered documents. It is human experience, Sir.

Then I would like to point out one thing more with regard to clauses 55 and 60. In clause 55 provision has been made for protection of separate rights. Here it is laid down that a person who possesses a right in a copyright partially will have the right to file a suit

Shri R. C. Gupta.]

and he will not have to make the owner of any other right in that copyright a party to such suit. In clause 60 you will find it laid down: "In every civil suit or other proceeding regarding infringement of copyright instituted by an exclusive licensee, the owner of the copyright shall, unless the court otherwise directs, be made a defendant and where such owner is made a defendant, he shall have the right to dispute the claim of the exclusive licensee." Now here in clause 55 you don't want that any person interested in that copyright should be made a party whereas here in clause 60 you make it compulsory that such person should be made a party. Of course the two cases are different. But the idea is similar, practically the same. So I submit that in clause 55 we must have a provision under which it should be made compulsory that all persons interested in a copyright shall be made parties to a suit so that all interested may be heard together without giving room to a multiplicity of suits and the rights of all persons may be decided once for all, at least in the presence of all interested persons, just as in a mortgage suit all persons interested in a mortgage security are made parties. Here it should not be necessary that they should go before the court and contest, if they want to contest. They should appear in court and finish with the litigation altogether once for all. So these words "without making the owner of any other right a party to such suit, action or proceeding" may be deleted and they may be replaced by some such language as we find in clause 60 to the effect that all other persons having an interest in the copyright shall be made parties. This in another suggestion, Sir, which I wished to make.

Thank you.

DR. P. V. KANE (Nominated): Mr. Deputy Chairman, I shall speak generally now. I have given notice of some amendments and when they come up I shall speak at length. A

great deal has been said by numerous speakers on copyright. Now why do you want this Copyright Act? It is because you think that a man has some right in the work he has produced. Here three courses are possible. Either anybody may plagiarize anybody else's work. There is no such Act in India. At least there was no Act before the British came and I may mention for the information of certain people at least that there being no copyright, people used to plagiarize their predecessors' work and produce it as their own. I can just cite one example that comes to my mind. A famous writer of Bengal called Bhavadeo Bhatta about the tenth or eleventh century A. D. writes in one of his works: "I know there are thieves round about, but if anybody takes anything from my book, I shall become a *Paisacha* and seize him." That is what he has stated. So that was the only remedy left in those days. So that is one way—anybody may take anybody's work. That was how Shakespeare's works were plagiarized and published in America and other places. Then there was no copyright Act, there is also another extreme. Production of literary work is something perpetual. These are the two extremes and between the two, I think all are agreed—most at least—that there must be a Copyright Act putting some restriction on the unrestricted right to plagiarize and giving certain rights to the author, because the State is interested in inducing people to use their brains and turn out good literary work. But that cannot be done unless those who turn out such work are protected in some form or other. Therefore a Copyright Act was required. We borrowed it from the British in 1914 and now that we are independent we are going to have an independent Act. All the conflicts of views arise really about what restrictions we shall put against plagiarism or against anybody multiplying—I would not use that bad word 'plagiarism'—without permission other's works and about what benefits we shall confer upon them.

Now, here again generally no books are translated unless they become famous after a number of years. I may tell you from my personal knowledge. I began to write in 1910 and now it is 47 years and I have written about 25,000 pages. Till last year nobody bothered about translating any of my books but now I have received applications asking for permission to translate some of them into Hindi, Marathi and other languages and even in Sinhalese. They have not yet come to know that there is such a Bill restricting the right of translation for ten years. Now they have to wait only for this being passed and they can at once translate all my works without permission. So that aspect must be looked into. A man may get no benefit at all for years. Someone was talking about scientific books. Even scientific books like Eddington and Jean's etc. have been selling by thousands. That depends on what style you adopt. But apart from that my point is that the real conflict of views is only in respect of two points—what would be the utmost extent of copyright, number of years or generations whatever you call it and what should be the restriction against reproduction in original language or any language. These are really the two important points. Being an author myself, it is likely that my motives in speaking might be misunderstood. I may tell you that by writing for about 30 years I have not gained even one-tenth of what I got as a lawyer. In India I do not know, but in England or in America the best seller gives you millions. Just now Agatha Christie's name was mentioned. I read two or three of her books and become so much disappointed that I never read her books again, but her books are sold in millions. So it is not necessarily the best books that become best sellers.

DR. RADHA KUMUD MOOKERJEE: You write on difficult and unpopular topics.

DR. P. V. KANE: So what I am driving at is, do not rob Paul to pay Peter. You are robbing the men of intellect, and there are not many,

remember. Generally nobody wants to write unless he can publish it free. He will send it to some newspaper, magazine etc. because printing these days is very costly. You may have no idea. I have printed a thousand pages and I had to put in Rs. 11,000 for printing and binding only. The State is interested that the publishers should come forward and take up this, but nowadays the publishing trade is also bad. None of my books is being taken up by any publisher. They say, 'we have no money'. It is in the interests of the State that the authors should come forward and publish their works and for that the author should get some protection. If you say that translation could be done after ten years into fourteen Indian languages, that means, not a pie will be paid to the author. After ten years nothing is to be paid and no permission is to be taken. At present they apply for permission. I myself have got requests but I have not given permission. But when this is passed no permission is necessary. Therefore I suggest that as regards translation, some period should be put down, whatever it might be. My hon. friend, Shri Kishen Chand said, thirty years should be allowed for copyright. I am not agreeable to this period of ten years, because nobody would write anything. Someone may write, if he has the enthusiasm, even without taking anything but that is very rare. Therefore we must strike a mean between the two extremes of no protection and absolute protection. Between the two I am suggesting that fifty years would be the proper thing. That is one point which I want to place before the House. Ten years is too short a time. Books do not get known even within that time, particularly if they are not on subjects like drama, novels or short stories. Nowadays they have become very popular. Other books do not get known for ten years or even more. Even now there are people in Delhi who do not know that I have written four volumes of the History of Dharma Sastra. They ask, 'how many volumes have you got? One?' When I say four, they are surprised. Therefore what I say

[Dr. P. V. Kane.]

is, do not be harsh on the author or his product. Why do you deprive him positively? At present you are depriving him positively by saying ten years here. Once I had asked somebody to send me two pages of the translation of my book saying 'I wish to see your calibre, to see whether you are fit'. But then he did not proceed. Now, they think it is worth while and therefore they have applied for permission but I have not given the permission yet. Therefore what I say is, do not rob a man who has worked with his brain for years and years. As regards translation in ten years he is nowhere and in 30 years also he will be nowhere. You say 30 years after his death. Suppose a man writes something just about the time of his death and the protection is there only for 30 years and then that is also a short period. While legislating you must be liberal; then only people will get encouragement.

Another point I have is this. So far I do not find any provision in regard to this point; I am subject to correction. Suppose I write a book today. There is copyright. But I revise that book some years later and come forward with a new edition. Can a man after ten years translate this second edition, this revised edition? There is no provision here. This aspect is not made clear here. My book will be called the same—History of Dharma Sastra, History of Alankara—but it may be a new edition and I may have added 500 pages. What is the position then? There must therefore be a definition that the copyright includes published work or the revised edition of the work. Otherwise there is no protection. I would like to draw the attention of the hon. Minister to this aspect and I would like him to add the words 'publish the work or a revised edition of the work'. That will have to be made clear.

There is another point that has occurred to me. In clause 17 the word 'contract' is used. Now, it is said that

this is a right of property. My point is this. If I have to make a gift or mortgage of an immovable property worth one hundred rupees or more, then it must be registered in writing. Here you say simply 'contract of service'. It may be oral. You find in sub-clause (a):

"in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service....."

There is nothing in writing. I say whenever you use the word 'agreement' or 'contract' here, you must say agreement or contract in writing. It must be there. I have given notice of an amendment here, but everywhere that should be the case. We have employees and employers, the employees think that the employers are the worst people in the country. The employers think that the employees are only out for money, they do not know their own responsibilities. Landlords think that the tenants are bad and the law presumes that all landlords are bad. You will find that in the legislation in Bombay, in regard to landlord and tenant, particularly, in regard to house rent, generally they suppose that the landlord is a rich man and a bad man and the tenant is a 'sadhu'. In that way they do it. Do not suppose that. Here if a man enters service—I know but I do not want to give names—big men generally bind down their servant by taking an agreement in writing from him. And there is a footnote below which says, this does not come into force until both sides have signed it. They never sign it and keep it in the safe. Only the man employed, because he is a needy fellow, signs it while the boss keeps it in the safe. He would say, I have never signed it. So, you go away now after one month's notice. Therefore, you must have the contract in writing. That is another point I want to make.

Then there is one more point. I think I have dealt with the two points

that I wanted to make. One more point is, you have created here under this Bill the Copyright Board. I do not see what the Copyright Board is going to do. I would like to know from the hon. Minister what particular duties are entrusted to them. I have not been able to find out exactly what particular duties the Board is expected to discharge. I had one suggestion, but that amendment has lapsed on account of Parliament having been dissolved. I have suggested an amendment that the Board should have the power to certify that in its opinion an undue advantage has been taken by an employer or publisher with reference to a contract or an agreement. If it is certified, then a suit may be brought in spite of the law of limitation. That is what I had suggested. Now, I forgot to again give it and, therefore, I am only suggesting whether the Minister-in-charge will look into it. What is the Board there for—only to register things? That is unnecessary. The man gets copyright by the very fact of publication. It is not necessary that the book should be registered. So, if the Board is to do any useful work, something must be entrusted to it and it should do such things. That is what I have been suggesting.

PROF. A. R. WADIA (Nominated): Mr. Deputy Chairman, I have listened to several speakers, some with very great surprise and some with great admiration. I am one of those who believe that a person who produces something out of his own inner genius has a right to the fruits of it. It is no use saying that the other people benefit and, therefore, the other people can have full right to it. I think that would be terribly unfair. Our ideas of property may be changing, but it is interesting to note that, even in communistic countries, especially in Russia—and I say it to their credit—full encouragement is given to the authors and even though they talk of the equalisation of the incomes, so far as the authors are concerned there is no limit placed on their incomes and it is

a fact that the authors in Russia are very well paid. They almost become the wealthiest people in the community because private industries are abolished.

DR. RADHA KUMUD MOOKERJEE: They do not pay income-tax

PROF. A. R. WADIA: Exactly. So, they become all the more rich.

SHRI RAJENDRA PRATAP SINHA: There the right is for fifteen years *post mortem*.

PROF. A. R. WADIA: Well, Sir, that shows that even in a communistic country there is a certain preference given to the products of the intellect and the writers and it is but fair that this should be done. I cannot quite understand the enthusiasm of Mr. Kishen Chand to limit his right only to a period of thirty years. It is much too short. I think that right should be extended. As my friend, Dr. Kane, has pointed out and as the Bill put before us recognizes that right should extend to the life of the author plus fifty years after his death and I think it is a very reasonable thing.

I also entirely agree with Dr. Kane that the right of translation after ten years is much too short. As has been very well pointed out, a book does not become famous in ten years—not necessarily. Very often the authors have to wait very long and it is but fair that they should get some benefit out of it. There is no reason why the book should be translated into other languages and he should not get any benefit out of it. It is a sort of intellectual loot, which should not be permitted by a civilised country. And, therefore, it seems to me that the right of translation should also extend to the period of the author's life-time plus fifty years. If the book is really worth publishing and if the society is going to benefit by it, there is no reason why people who want the translation in a particular language

[Prof. A. R. Wadia.] .
should not pay for it. Tagore's works are translated or Bankim Chandra Chatterjee's works are translated into other Indian languages because they know that there is a market for it, because they know that these translations will sell. And if the translations sell, why should not a part of the profit go to the author himself? It stands to reason.

Another little thing is this. I find that an exception is made in the case of extracts being made, or the performance of a drama or an opera for the benefit of a charitable institutions. Well, Sir, I do not see any reason why the poor author should suffer for it. Sometimes it happens that an author is very poor, the work is good and a college dramatic society performs it, makes some money out of it—may be for a charitable purpose. But it seems to me that charity should begin at home. If the poor author is starving or semi-starving, it is but reasonable that the performer, even for a good purpose, even for a charitable purpose, should give the benefit of it to the author also. Furthermore, now-a-days—especially in India—books that sell most are the text books and these text books are often composed of long passages taken from the authors

concerned. Why should not the authors get the benefit of that? The publishers know their business. And the general public might say that the passages or the quotations are meant for the children and our children are going to have the benefit. If a passage is included in a book, why should not the author get the credit for it or get some payment in addition? Well Sir, it seems to me that every author has a right to get the remuneration. If the passage is worth including in a text book, it is also worth paying for it.

MR. DEPUTY CHAIRMAN: Will you take some more time?

PROF. A. R. WADIA: I shall take five or ten minutes.

MR. DEPUTY CHAIRMAN: The you can continue tomorrow morning.

The House stands adjourned till A.M. tomorrow.

The House then adjourns at five of the clock till eleven of the clock on Wednesday the 15th May 1957.

THE BUDGET (GENERAL)

MR. CHAIRMAN: The Budget will be laid at 6 P.M. and not at 5-30 P.M.

THE COPYRIGHT BILL, 1955—
continued.

PROF. A. R. WADIA (Nominated): Mr. Chairman, as I have already been saying, we welcome this Copyright Bill in the interest of the authors. But, Sir, there is one aspect which has been more or less completely neglected in the Bill as it has emerged from the Joint Committee. We are all aware that authors are sometimes hard pressed. It may be, sometimes they are ignorant of their own rights. In either of these circumstances an author for his immediate needs sells his copyright outright for a very paltry amount. Just this morning, Sir, I was told by a distinguished Marathi author that a Marathi work was sold for Rs. 40, and yet that work was so good that it has gone into twenty editions. Evidently the publishers have made profit out of it. But the author has suffered. What is the remedy for this, Sir? I see no remedy in the Bill itself. I find that clause 18 of the original Bill, as was drafted by the Government, provided for reviewing such one-sided contracts. But unfortunately I find that in the Select Committee this clause has been practically dropped. On enquiry I learn that this had been dropped at the instance of the authors themselves who were the members of the Joint Committee. I feel very much surprised, Sir, at the attitude taken up by the authors. I understand their argument was that if such a right is given, the publishers would be negligent about pushing the sales. I am afraid the authors have not been quite fair to themselves, because if the work is good and it has been selling well, it is in the interest of the publishers themselves to continue pushing the sale of that work, and it is but fair that the author should get a fair share

of it. That is why, Sir, it seems to me that there should be some provision whereby the inequity of these outright sales should be checked.

Now, Sir, there are two ways of doing it. One possible way is that all these literary contracts should be for a limited period only, for it often happens that neither the author nor the publisher knows the potential value of his work. Take for instance a work like Mrs. Henry Wood's "East Lynne". I believe seven publishers refused it, and when it was published, it became a very great success. And this is not an isolated instance. We have the same story of so many other works which have been refused by publisher after publisher, because the publisher could not gauge their value. But once a book was published, it had a tremendous sale, and the publishers made their fortune and perhaps the authors also made their fortune. Therefore it is very desirable that all literary contracts should be only for a limited period. In other words, no absolute right should be given to the publishers to exploit the poverty of the authors indefinitely. If this is not considered desirable, there is a second method possible, and that is that all contracts should be reviewable by a responsible body like the Copyright Board which is sought to be established under this Bill. My friend, Dr. Kane, was complaining yesterday that the functions of this Copyright Board are very nebulous. Nothing very definite is stated as to what the functions of this Board will be. Now it seems to me that if the Board is assigned this task of reviewing contracts, may be at the instance of the authors affected, it would be in the interest of the authors and in the interest of literature generally. I do wish, Sir, that the Government would seriously consider the possibility of overcoming this conspicuous lacuna in the Bill.

Just one point more, Sir, and that is with reference to the amendment which is sought to be moved by Dr. Kane and myself to amend clause 17

[Prof. A. R. Wadia.]

(c) on page 11. We are suggesting that after the word 'contract' the words, 'in writing' should be inserted. Now here too there is a tendency for the poor writer to be exploited. Somebody may be in the service of a publishing company or of a newspaper, and it will be part of his duty to write articles. Usually such articles may not be worth much, may happen to be only of an ephemeral interest, but occasionally it may be that such an article is of a very great value, and it may be that it may have such a high literary quality that it may be sought to be included in an anthology. In all such cases, the right of copyright goes to the proprietor of the press, not to the author. That also seems to me to be unfair. That is why we are insisting. . . .

THE MINISTER OF STATE IN THE MINISTRY OF EDUCATION AND SCIENTIFIC RESEARCH (DR. K. L. SHRIMALI): For a limited purpose, to newspapers and magazines only.

PROF. A. R. WADIA: Even a newspaper article may occasionally have literary value; occasionally it may be included in a future work or published in an anthology. Therefore it seems to us but fair that this contract should be definitely in writing, even if the author gives up his right completely, though it would be unfair.

Well, Sir, on the whole, I must congratulate the hon. Minister as well as the Committee on the excellent work that they have done in introducing an Act which will really in the long run benefit the authors, not fully in the form in which it is now before us, but if some of the amendments which have been given notice of are accepted by the Government. I think the Government have earned the gratitude of the authors and the composers of musical pieces.

SHRI P. N. SAPRU (Uttar Pradesh): Sir, first of all, I would like to express my general appreciation of the work that the Joint Committee has done in connection with this Bill. It has performed this task in an able and efficient manner. Having said this, I would like also to say that the House is indebted to the hon. Minister for indicating that he has open mind on certain matters connected with this Bill.

We had some very able speeches yesterday. I was particularly interested in the speech of our great Hindi poet, Mr. 'Dinkar'. We had also a speech of considerable merit from Mr. Nihar Ranjan Roy from Bengal. I largely agree with the point of view which was presented on a matter of controversy in this Bill by Mr. 'Dinkar'. Let me say, Mr. Chairman, that I am one of those who would not like our social institutions to be based upon the acquisitive instinct in life. I have very little of the acquisitive instinct myself, and I certainly am not an admirer of what is called the institution of property, but I would certainly like our society and our social laws to give encouragement in every possible way to what may be called the creative instinct in life. I think that the writer, when he is writing some great work, does not think only of the pound, shilling and pence that he will get, of the rupees, annas and pies in terms of the old paisa or new paisa that he will get; he is only expressing his own unique personality; he is creating something for himself. He has an urge in him to write. There is no one in this Parliament who has greater experience of writing than you, Sir; you are yourself one of the most distinguished writers and thinkers of the age, and I am certain that, when you wrote those two volumes on Indian Philosophy, when you wrote your other numerous works which it has been our privilege to read, you were not thinking of the money that you would get out of your writing those books. You could not help expressing yourself in that way. It

was a joy which you could not deny to yourself. It was your creative instinct which asserted itself. Shakespeare, when he was writing "Cymbeline" or the "Merchant of Venice" or "Othello", was not thinking in terms of the money that he would get. He was only expressing his own personality. Now, this is all right, but the publisher, when he publishes a book, is not expressing his personality and he should not be in a position to exploit the urge which someone feels to do creative work by taking unnecessary profits for himself. Therefore, I think that there is in this Bill a case for treating copyright as a special kind of property. Mr. Roy was correct in saying that there are no absolute standards or absolute tests of what a property right is. There is a relativity about this matter. Therefore, I think that this right should be respected more than other rights, and even in the Soviet Union of which our friends from Kerala are such great admirers—I do not say wrongly; I wish they had as much admiration for their own country as they have for a foreign country; that is my only grievance against them—even in the Soviet Union, the artists, the men of letters the authors, the playwrights and the actors get very heavily paid, because they do not exploit the labour of others. The author is creating something and being a creator, he should not be allowed to be exploited by others. Therefore, there is on broader ethical grounds a very strong case for a good Copyright Bill. I personally am not ashamed of saying that, though the Berne Convention may be a Convention which was agreed to by the Western Powers, I find much wisdom in the Berne Convention. I am therefore for retaining the period of fifty years. I am personally for retaining the period of fifty years after the death of the author, and the copyright should not be allowed to be infringed for that period. But what about translations? What is the logical justification for making a distinction between an original work and a translation in an Indian language?

age of a book printed in an Indian language? I can see no justification for it.

As a matter of fact, by allowing unfettered right to translate a work of art or of literature or of science after ten years in an Indian language, we may be inflicting grave spiritual injury upon the author of the work himself. He may find that his work has been translated in hideous language and that the spirit of the work is not to be found in the translation at all. He may genuinely feel that he has literally been massacred in the literary sense. Now, that is a spiritual dissatisfaction which every normal writer may well feel if he finds that his translation is hideous. Mr. Chairman, in my own humble way, I have done some bit of journalistic writing and when I read an article written by me for some paper and I find that words have been mis-spelt, that 'a' has been used where 'the' should have been used by the staff editing it or some such editorial mistakes are there I feel greatly pained. It gives me mental pain and I say to myself that they ought really to have been more careful. Well, in a big way, a writer of distinction may well feel that an unauthorised translation of a work should not appear after ten years. It may have been done by a fellow who takes it into his head to translate a work without understanding the spirit of it. The translation may be of such a character which inflicts real pain on the author. I think we should respect human personality in this respect. I am not putting it on grounds of property rights; that is perhaps a feeble ground to put one's case against this clause. I am putting it on this broader non-material consideration, on this broader spiritual consideration. I am not surprised that our Communist friends, with their background in matters pertaining to the non-material sphere of life have nothing very much to say against a provision of this character but those, Mr. Chairman, who value democracy,

[Shri P. N. Saprú.]

who value the free way of life, who value certain spiritual values, cannot but deplore that a clause of the nature which is to be found in section 51 should have been inserted. There are some amendments by Mr. Rajendra Pratap Sinha who made a very good speech yesterday on this point and I would like the Education Minister to view the question raised by it with an open mind. I would like him to accept those amendments because, by doing so he will be encouraging real literary work of a meritorious character in this country.

Mr. Chairman, we know that we have a limited reading public in this country and it takes years for a book to get known here and the writer is not able to get much by writing these books. There are no purchasers here. The difficulty here is that you cannot get men to devote themselves to literary pursuits because by doing so they feel that they will not be able to make a decent living. The difficulty is that there is no reading public and there is no public which purchases books. I have had some experience of that. I know that a book purchased by one person is read by ten persons; people go on borrowing books and the books pass on from one hand to the other and finally the purchaser of the books finds that the books are lost in transit. This is an experience which will be borne out by those who have private libraries or by those who are working in public libraries. Therefore I think, Mr. Chairman, the question of shortening the period so far as Indian languages are concerned will be of inconsiderable character. That will not mean very much. If a book is written in Bengali I do not think that Marathi or Gujarati or Tamil literature will very much benefit by the fact that after ten years the Bengali book can be translated into any of the other Indian languages. While the gain to the community from this will be of a negligible character, the spiritual discontent which the writer will feel may be of a consider-

able character. The incentive to effort may suffer and in our stage of cultural development we do not want incentives to cultural and scientific effort to suffer in this country. Therefore, Mr. Chairman, this aspect of the Bill has to be given considerable thought and the view which has been put forward by Mr. Dinkar is the right view and I would like to support it. Mr. Rajendra Pratap Sinha has pointed out that more or less this view is accepted by the Universal Copyright Convention. The hon. Minister made an excellent start by assuring us that he would not be like other Ministers and that he would not say that as the Select Committee had done its work, he was not going to interfere in this matter. He has made an excellent start and he said that he will consider the suggestions on their merits and I do hope, Mr. Chairman, that he will consider this aspect of the matter on the merits of the case and accept the amendments or some of the amendments which have been proposed by Mr. Dinkar and Mr. Rajendra Pratap Sinha.

Thank you very much.

श्रीमती शारदा भार्गव (राजस्थान) :

माननीय अध्यक्ष महोदय, सबसे पहले मैं मंत्री महोदय को और प्रवर समिति को बधाई देना चाहती हूँ कि उन्होंने इस विधेयक में अपनी सलाह के बाद बहुत कुछ परिवर्तन जो किये हैं वे समाज के लिये हितकारी हैं। जब पहले पहल यहाँ पर यह विधेयक आया था तो मैंने भी कुछ सुझाव रखे थे, मुझे बड़ी प्रसन्नता है कि प्रवर समिति से इसके आने के बाद जब मैंने रिपोर्ट पढ़ी तो मैंने पाया कि उसमें वे सभी सुझाव आ गये हैं। साथ ही पहले लेखकों के बारे में इसमें जो कापीराइट का समय २५ वर्ष दिया गया था बड़ी प्रसन्नता की बात है कि प्रवर समिति से आने के बाद इसमें उसे ५० वर्ष कर दिया गया है। हम जानते हैं कि हमारे देश में लेखकों की बड़ी दयनीय दशा है और उनकी आर्थिक दशा बहुत

खराब रहती है तो उन्हें कापीराइट का, उनकी कृति पर उन्हें पूरा अधिकार क्यों न दिया जाय ? मेरी समझ में नहीं आता है कि जब दूसरे व्यक्ति जोकि धन उत्पन्न करते हैं या जो कोई भी चीज उत्पन्न करते हैं

12 NOON. उसका मूल्य ले सकते हैं, तो लेखक जोकि अपने दिमाग की उपज से कोई कृति उत्पन्न करता है, उसका फायदा वह क्यों न उठावे। इसलिये यह जो समय अधिक कर दिया गया है इसके लिये मैं प्रवर समिति को बहुत बहुत धन्यवाद देना चाहती हूँ।

और भी बहुत सी बातें हमारे अन्य बन्धुओं ने कही हैं, उन को दोहराने का, मैं समझती हूँ, मेरा कोई काम नहीं है। परन्तु एक बात जो कि इस प्रवर समिति की रिपोर्ट में रह गई है, उस के बारे में मैं कहना चाहती हूँ।

२६ पेज पर धारा ५१ में जो (p) उपधारा दी गई है उसमें लिखा है :

“the production, reproduction, performance or publication of a translation any Indian language of an Indian work after the expiry of a period of ten years from the date of the first publication of the work”.

ट्रांसलेशन दस वर्ष बाद हो इसके बारे में बहुत कुछ कहा जा चुका है और मैं भी इससे सहमत हूँ कि समय दस वर्ष रखा जाय, परन्तु दस वर्ष बाद भी अगर ट्रांसलेशन के बारे में लेखक से सलाह ले कर के या किसी प्रकार का लाइसेंस ले कर और कुछ उसका आर्थिक बदला दे कर के ट्रांसलेशन किया जाय तो ज्यादा सही है। परन्तु इस बात पर मेरा अधिक जोर नहीं है, अन्य बन्धुओं ने इस विषय में जो कहा है उससे मैं सहमत हूँ।

15 RSD—2.

एक खास बात यह है कि इस के अन्दर जो “इंडियन वर्क” की परिभाषा दी गई है वह चाहे इस स्थान पर रखा जाय या जिस रूपमें मंत्री महोदय ने संशोधन रखा है उस में, मैं समझती हूँ उससे कोई अन्तर नहीं पड़ता है, चाहे कहा रखा जाय। परन्तु “Indian work” की परिभाषा यह है कि—literary, dramatic or musical work published in India हो, जबकि दूसरे पेज पर आर्टिस्टिक वर्क की परिभाषा में कहा गया है कि—

“artistic work” means a painting, a sculpture a drawing (including a diagram, map, chart or plan),.....”

मेरा कहना यह है कि बहुत सी पुस्तकें, यदि वे इतिहास या कहानी हों, उनके अन्दर तो केवल लिखित ही चीजें आयेंगी जिनको कि आप कह सकते हैं लिटरेरी या ड्रामेटिक। मगर कुछ पुस्तकें जो बड़ी आवश्यक होती हैं, समाज के उपयोग की होती हैं, उनके अन्दर बहुत से आर्टिस्टिक वर्क्स भी आते हैं, जैसे किसी पुस्तक को आप देखिए, उसके आंदर ड्राइंग अक्सर बीच बीच में आती हैं—ड्राइंग्स में मैप्स भी आते हैं, चार्ट्स भी आते हैं और डाइ-ग्राम्स भी आते हैं—तो जिस समय उस पुस्तक का ट्रांसलेशन किया जायगा तो वह “ड्राइंग का वर्क” आर्टिस्टिक वर्क में होने से वह भी कापीराइट में आ जाता है और इसलिये किसी भी पुस्तक का ट्रांसलेशन पूरी तरह से नहीं किया जा सकता है। यदि ट्रांसलेशन के समय चार्ट्स और डाइ-ग्राम्स बदल दिये जायं तो भी पुस्तक के लेखक को एक इस प्रकार का ऑब्जेक्शन हो सकता है कि मेरी किताब का ट्रांसलेशन सही नहीं किया गया है क्योंकि मैंने डाइग्राम जो दिये थे या जो मैंने मैप्स दिये थे उन को बदल कर दूसरे दे दिये हैं इसलिये यह सही ट्रांसलेशन नहीं है, गलत हो गया है

[श्रीमती शारदा भागवत]

और पढ़ने वालों की समझ में अच्छी तरह नहीं आयेगा। इसलिये जब तक हम ट्रांसलेशन के अन्दर आर्टिस्टिक वर्क भी इन्कलूड नहीं करेंगे तब तक किसी अच्छी पुस्तक का सही ट्रांसलेशन नहीं हो सकेगा। पुस्तक के अन्दर सिवाय लिटरेचर के और भी आर्टिस्टिक वर्क हो सकते हैं। तो मेरा सुझाव है, और मैंने इस सम्बन्ध में एमैंडमेंट भी दिया है और उस वक्त मैं विस्तार से कहूंगी कि इस तरह के जो लिटरेरी वर्क हैं, अगर उसमें कोई आर्टिस्टिक वर्क भी आता हो तो उस जगह पर इन्फ्रिजमेंट किया जा सकता है ताकि किसी भी किताब के ट्रांसलेशन में बाधा न पड़वे और अच्छी पुस्तकों का ट्रांसलेशन हो कर पब्लिक के काम आ सके। यह मेरा एक सुझाव है जो इसमें आ ही जाना चाहिये, अन्यथा झगड़े रोज होंगे, लिटिगेशन रोज होंगे और कोई भी पुस्तक का ट्रांसलेशन पूरी तरह नहीं हो सकता है। पुस्तक के अन्दर केवल लिखित वस्तु के अलावा और भी ड्राइंग होंगे। तो मेरा यह सुझाव अवश्य ही मंत्री महोदय को मानना चाहिये क्योंकि इसमें जो कमी रह गई है वह इससे पूरी हो जायगी।

इसके अतिरिक्त ट्रांसलेशन के बारे में जो यह कहा गया कि दस वर्ष या २० वर्ष या २५ वर्ष तक लेखक को जितना अधिकार उसकी कृति पर हो उतना ही ट्रांसलेशन पर भी हो, चाहे कुछ अंश तक, यह सही है क्योंकि ट्रांसलेशन भी उसी कृति का होगा। परन्तु, मैं समझती हूँ कि जब दस वर्ष की अवधि रख दी गई है तो हर एक लेखक को यह मालूम होना चाहिये कि दस वर्ष के बाद पब्लिक को ट्रांसलेशन का अधिकार मिल जायगा। इसलिये यदि लेखक समझता है कि समाज में इसके ट्रांसलेशन की कोई वैल्यू हो सकती है या समाज इसका ट्रांसलेशन किसी भाषा में चाहता है तो दस वर्ष के अन्दर या तो वह स्वयं ट्रांसलेशन

करे या किसी पब्लिशर या लेखक द्वारा उसका ट्रांसलेशन करा सकता है। इसलिये यदि दस वर्ष तक वह नहीं ट्रांसलेशन कराता है और जनता को उसकी आवश्यकता है, यानी दूसरी भाषा में उस पुस्तक का मूल्य है दूसरी भाषाओं में पढ़ी जा सकती है और जनता के लिये उपयोगी हो सकती है तो उसका ट्रांसलेशन होना अनिवार्य है। उस दशा में कोई भी व्यक्ति जो यह समझता है कि इसका ट्रांसलेशन होना चाहिये उस को अधिकार मिलना चाहिये कि वह ट्रांसलेशन करा सके। हाँ, उसके अन्दर कोई भी शर्त ऐसी रखी जा सकती है कि उस ट्रांसलेशन के कराने के पहले बोर्ड से किसी प्रकार की इजाजत ले और दूसरे, यदि बोर्ड यह कहे कि उसमें रेम्युनेशन लेखक को देना चाहिये तो वह लेखक को दे दिया जाय। यही मेरा सुझाव है। आशा है मेरे इन सुझावों को मंत्री महोदय स्वीकार करेंगे और इसके साथ मैं सेलेक्ट कमेटी की रिपोर्ट का समर्थन करती हूँ।

श्रीमती चन्द्रावती लखनपाल (उत्तर प्रदेश) : माननीय सभापति महोदय, कापी-राइट जैसे आवश्यक विधेयक पर कल से काफ़ी वादविवाद और चर्चा चल रही है, किन्तु इतने विचार मंथन के पश्चात् भी इस विधेयक का एक आवश्यक पहलू हमारे गम्भीर विचारों की परिधि के अन्तर्गत उस रूप में नहीं आया जिस रूप में कि आना चाहिये था। श्री मन्, इस विधेयक ने लेखकों, कलाकारों तथा अन्य ग्रन्थकारों पर, उनकी रचनाओं और उस पर उनके स्वामित्व के ऊपर प्रतिबन्ध लगा कर उनके मूल भूत अधिकारों का एक महत्वपूर्ण प्रश्न खड़ा कर दिया है।

सबसे बड़ी शिकायत की बात जो है वह यह है कि इस प्रश्न को उठा कर उसका समाधान, कोई उचित समाधान नहीं किया गया। जो समाधान किया गया वह अप्रत्यक्ष देश भारतवर्ष की वर्तमान परिस्थितियों के

साथ मेल नहीं खाता, हमारी जो परिस्थितियाँ हैं उनके अनुकूल नहीं बैठता । इस विधेयक के द्वारा लेखकों और कलाकारों को अपनी रचनाओं पर मृत्यु के पश्चात् ५० साल तक स्वामित्व रहेगा और ५० साल के बाद उनका अपने ग्रन्थों पर, अपनी रचनाओं पर कोई अधिकार न रहेगा । श्रीमन्, मैं मंत्री महोदय से यह पूछना चाहती हूँ कि उन्होंने लेखकों के इस संकुचित क्षेत्र में प्रवेश करने से पहले क्या यह भी चिन्ता की कि जो दूसरे क्षेत्र हैं, पार्टी के, जायदाद और सम्पत्ति इत्यादि के क्षेत्र हैं, उन पर भी वे अपनी नज़र डालें । आज अपने देश के अंदर मकान हैं, मकान बनाने के लिये प्लॉट्स और जमीनें हैं, सोना चांदी है, जेवरों और जवाहिरात हैं और कल और कारखाने, फर्म और कंपनियाँ हैं । क्या उनके मालिकों पर, उनके स्वामित्व पर भी कोई प्रतिबन्ध लगाने वाला कानून अपने देश के अंदर मौजूद है । और यदि नहीं तो मैं मंत्री महोदय से पूछना चाहूंगी कि उन्होंने लेखकों और कलाकारों से ही शुरुआत क्यों की, उनके ऊपर ही प्रतिबंध क्यों लगाया । यह तो ऐसा ही है जैसा कि आप यह कह दें कि आज का मकान मालिक जो है, उसके उत्तराधिकारियों का ५० साल के बाद उसके मकान पर कोई कब्जा नहीं रहेगा और ५० साल के बाद उसका मकान एक धर्मशाला बन जायेगा । जिसकी मर्जी होगी उस मकान पर काबू कर लेगा । या हम कोई ऐसा कानून बना दें कि हमारे जो जेवर हैं हमारी जो और सम्पत्ति है, हमारी मृत्यु के बाद या ५० साल के बाद उन पर उत्तराधिकारियों का हक्क नहीं रहेगा, कोई अधिकार नहीं रहेगा । श्रीमन्, यदि इस प्रकार का कानून बना दिया जाय और बन भी जायेगा, क्योंकि हम जानते हैं कि हमारे आँखों के सामने जो समाजवादी समाज का सुनहरा स्वप्न नाच रहा है, उस स्वप्न को साकार करने के लिये हमें इस प्रकार के कानून भी अवश्य बनाने होंगे । लेकिन साथ ही मुझे जो कठिनाई दीखती है

यह है कि हमें प्राथमिकता किस क्षेत्र को देनी चाहिये । यदि आज मंत्री महोदय इस प्रकार का कानून इस सदन के अंदर ले आते हैं कि जिससे मकान मालिकों के ऊपर, कलाकारखानेदारों के ऊपर, प्लॉट्स के मालिकों के ऊपर, इस प्रकार का प्रबंध लगा देते जैसा कि इस विधेयक के द्वारा लेखकों के ऊपर लगाया जा रहा है तो मैं सबसे पहली होती जो उनकी प्रशंसा करती, उनकी दाद देती । लेकिन सब से आवश्यक प्रश्न तो प्रायरटीज़ का है, किस चीज़ को प्राथमिकता दी जानी चाहिये और किस समय दी जानी चाहिये? अगर हम गलत प्रायरटीज़ को ले कर चलते हैं तो हम गलत नतीजों पर पहुंच सकते हैं ।

मेरे कहने का अर्थ यह है कि यहां पर भी हमने यही भूल की है । हमने आज प्रायरटीज़ पर प्रतिबन्ध लगाने का जो प्रारम्भ किया है, जो शुरुआत की है, जो प्राथमिकता दी है, जो प्रायरटी बनाई है, उसके अनुसार हमने लेखकों और कलाकारों को ही अपना निशाना बनाया है, जो एक गलत चीज़ है । मैं इस चीज़ से सहमत नहीं हूँ ।

श्रीमन् इतना सब कुछ सुन लेने के बाद आज मैं अपने आपको मंत्री महोदय के साथ मत होने में असमर्थ पा रही हूँ । उसका कारण है । उसका कारण यह है कि लेखक तो अपने देश में हैं वे वह व्यक्ति जिस को कोई भी नहीं है जो पहले से ही मरा हुआ है । फिर मरे हुए को मारना वह कहाँ का न्याय है ? श्रीमन् लेखकों के ऊपर प्रतिबंध लगाने ठीक ऐसा ही है जैसा कि जो अपने आप ही पहले से मरा हुआ है, जो पहले से ही निर्जीव है, उसको ही मारने का प्रयत्न करना ।

श्रीमन्, जो विधेयक हमारे सामने लाया गया है उसको बनाते समय मेरा ख्याल है हमारे सामने यू० एस० ए०, यू० के० और फ्रांस इत्यादि जैसे देशों का नक्शा रहा है । लेकिन मैं यह विनम्र निवेदन किया चाहती

[श्रीमती चन्द्रावती लखनपाल]

हूँ कि हमारे देश की परिस्थितियाँ, जहाँ तक लेखक का सम्बन्ध है और जहाँ तक कलाकारों का सम्बन्ध है, वे पाश्चात्य देशों, जैसे यू० एस० ए०, यू० के० और रूस आदि से बहुत भिन्न हैं, उन के अनुभव के आधार पर यहाँ पर भी कानून बना देना मुझे बहुत ज्यादा उचित नहीं प्रतीत होता। श्रीमन्, वहाँ की और यहाँ की परिस्थितियों में जमीन आसमान का भेद है। वहाँ की शिक्षा का स्तर कितना ऊँचा है। वहाँ पर १०० में से ९० आदमी पूर्ण शिक्षित हैं। किन्तु हमारे यहाँ साक्षरता ही इतनी नीची है कि मुश्किल से शायद १०० में से १० आदमी ऐसे होंगे जिनको हम साक्षर कह सकते हैं। हमारे देश में पुस्तक पढ़ने वालों की संख्या तो और भी कम है। इस के अतिरिक्त विदेशों में लेखकों की किताबें जो छपती हैं वह लाखों की तादाद में छपती हैं और लाखों की तादाद में बिकती भी हैं। वहाँ पर जो पुस्तक लिखने वाले हैं उनमें से आपको कितने ही मिलिओनियर, लखपति मिलेंगे। लेकिन मैं यहाँ आप से पूछना चाहती हूँ कि यहाँ के जो लेखक हैं उनमें से आप क्या बतला सकते हैं कि कोई ऐसा भी है जो लखपति या करोड़पति कहा जा सकता है? यहाँ के लेखकों की हालत जितनी दयनीय है, जैसी उनकी दुर्दशा है, उनके बारे में कुछ कहना बेकार सा लगता है। श्रीमन्, हमारे देश के विख्यात उपन्यासकार श्री प्रेमचन्द जी अगर किसी दूसरे देश में होते तो वे वहाँ पर लखपति हो गये होते। किन्तु वह दुर्भाग्य की बात है कि वे अपने ही देश में भूखे मरते रहे। निराला जैसे प्रभावशाली कवि का स्वास्थ्य बराबर गिरता ही जा रहा है और उसको सम्भालने के लिये उन के अनुयायी इस चिन्ता में लगे हुए हैं कि उन्हें सरकार से किसी प्रकार की सहायता या स्कालरशिप दिया जा सके।

श्री रामधारी सिंह "दिनकर" (बिहार):
केन्द्रीय सरकार दे रही है।

श्रीमती चन्द्रावती लखनपाल : हाँ, यह खुशी की बात है कि केन्द्रीय सरकार भी देने लगी है। जब मैं इलाहाबाद गई थी तो मुझे पता लगा कि इस प्रकार का प्रयत्न हो रहा है। श्रीमन्, यही हालत प्रभावशाली अगर बड़े बड़े लेखकों की है। उनकी जब यह हालत है तो साधारण लेखक और कलाकारों की तो बात ही क्या? श्रीमन्, मैं सिर्फ यही आपके सामने निवेदन करना चाहती हूँ कि जो आपके देश की वर्तमान परिस्थिति है, जो वर्तमान अवस्था लेखकों की है, उनके ग्रंथों की है, उनको बेचकर आय प्राप्त करने के सम्बन्ध में है, वह ऐसी नहीं है कि गवर्नमेंट आज इस प्रकार का विधेयक लाये, ऐसी मर्यादाएं और ऐसा प्रतिबन्ध लेखकों और कलाकारों के ऊपर लगावे। समस्या तो यूरोप की है, समस्या तो पाश्चात्य देशों की है और उसका समाधान हम यहाँ पर इस विधेयक को लाकर कर रहे हैं। मैं तो यह कहना चाहती हूँ कि आज अपने देश में लेखकों के द्वारा जनता का किसी प्रकार भी एक्सप्लोइटेशन नहीं किया जा रहा। हमारे समाज के अन्दर जो लेखक हैं वे जनता का शोषण नहीं कर रहे हैं बल्कि खुद, अपने आप शोषित हैं और अपने आप शोषण के शिकार बने हैं। श्रीमन्, ऐसी दशा में इस प्रकार का बिल लाना जिससे कि हम ऐसी व्यवस्था बना रहे हैं, ऐसी कुछ मर्यादाएँ और प्रतिबन्ध लगा रहे हैं जिसे लेखक पसन्द नहीं कर सकता, यह कोई माने नहीं रखता। यह चीज प्रजातंत्र के विपरीत है और वर्तमान परिस्थितियों के साथ यह मेल नहीं खाती।

कल मंत्री महोदय ने एक बात कही। उन्होंने डा० बालिंगे के प्रश्न के उत्तर में स्पष्टीकरण करते हुए बतलाया था। वह कहते हैं कि किताबें प्रापर्टी हैं लेकिन वह दूसरी प्रकार की प्रापर्टीज जैसे जमीन है, मकान है, कलकारखाने हैं, सोना चांदी हैं, इस प्रकार की जो प्रापर्टी हैं, उससे भिन्न

है। उन्होंने इसका कारण बताते हुए कहा कि "बुक्स" जो प्रापर्टी है उसका एक अपना सोशल आसपेक्ट और ह्यूमन आसपेक्ट है और उसका एक सामाजिक पहलू है। श्रीमन्, मैं उनकी इस बात से सहमत हूँ। लेकिन मैं पूछना चाहती हूँ कि किताबों के अलावा और दूसरी जो प्रापर्टीज़ हैं, जो दूसरी सम्पत्ति और जायदाद हैं, क्या उनका सोशल पहलू, क्या उनका ह्यूमन आसपेक्ट नहीं है? हर एक प्रकार की जितनी प्रापर्टीज़ है, हर एक का ह्यूमन आसपेक्ट है और हर एक का प्रभाव समाज पर पड़ता है। अपने देश में किसी एक व्यक्ति के पास मकान ही मकानों का संचय होता चला जाय तो क्या उसका असर दूसरे लोगों पर नहीं पड़ता? खास तौर पर अपने देश में जहाँ कि इतनी गरीबी और बेकारी है। अगर १० में से एक व्यक्ति के पास १० मकान हों तो क्या उसका प्रभाव समाज पर नहीं पड़ेगा? दूसरे ९ आदमी बिना मकान के रह जायेंगे। यदि १० में से एक व्यक्ति के पास १० लाख रुपया हो तो क्या उसका प्रभाव दूसरों पर नहीं पड़ता। ९ व्यक्ति ऐसे हो जायेंगे जिनके पास रुपया कम रहेगा।

श्रीमन्, अभी तीन चार दिन की बात है कि जंगपुरा के अन्दर प्लाट्स नीलाम हो रहे थे, ऑक्शन हो रहे थे। वहाँ मैं भी एक दर्शक के रूप में थी। मैंने देखा कि एक छोटा सा दो सौ गज का प्लाट है। गवर्नमेंट ने जब उन प्लाट्स को बेचा था, जब रेफ्यूजीज़ को एसाइन किया था, तब उसकी कीमत मुश्किल से पांच हजार थी और ज्यादा से ज्यादा कीमत लगा दी जाय तो दस हजार होगी। लेकिन रुपये वालों ने इकट्ठे हो कर उसकी कीमत बोली बोल कर ४०, ५० हजार तक कर दी। इस प्रकार जो गरीब लोग थे, जिनको प्लाट की जरूरत थी वे उस प्लाट को लेने से वंचित हो गये और उसका परिणाम यह हुआ कि जिन के पास दसियों प्लाट थे उनके पास एक

प्लाट और आ गया। श्रीमन्, मैं यह कहना चाहती हूँ कि जहाँ भी, रुपये का, ज़मीन का, धन का, दौलत का, ज़ेवर का, सोने और चांदी का संचय हो, वहाँ पर जरूर उसका एसपेक्ट ह्यूमन एसपेक्ट बन जाता है क्योंकि उसका सोसाइटी पर, समाज पर प्रभाव पड़ता है। इसलिये मैं तो इसके द्वारा सिर्फ़ यही कहना चाहती थी कि हम बेशक प्रतिबन्ध लगायें, हर एक प्रापर्टी पर लगायें, लेकिन किताबों को ही पहले समाजवादी समाज की रचना की तोप का निशाना बनाना, लेखकों को ही उसका शिकार बनाना, यह बात मेरी समझ में नहीं आती। आप पहले मकानों पर प्रतिबन्ध लगाइये, मकान मालिकों पर प्रतिबन्ध लगाइये, कारखाने के मालिकों पर प्रतिबन्ध लगाइये और फिर लेखक पर अपनी तोप दागिये। मैंने जैसा पहले आपको बतलाया कि हमारे देश में लेखक की इतनी दुर्दशा है और हमारे देश में शिक्षा का स्तर इतना नीचा है कि उसके लिये आगे बढ़ने की कोई गुंजायश ही नहीं है। उसे आगे बढ़ाना, प्रोटेक्शन देना और उसके हितों का संरक्षण करना इस विधेयक का ध्येय था, लेकिन जब आप विधेयक के द्वारा अनजाने ही लेखकों पर एक के बाद दूसरा तीव्र प्रहार करते चले जा रहे हैं। तो, श्रीमन्, मैं आपसे यह निवेदन करना चाहती हूँ कि प्रायरिटीज़ के चुनने में गलती नहीं होनी चाहिये। फ़र्स्ट थिंग फ़र्स्ट। जहाँ पहले प्रतिबन्ध लगाना चाहिये, निश्चित ही वह क्षेत्र लेखक नहीं है, पुस्तक नहीं है। उससे पहले मकानों पर, प्रापर्टी पर, सोना चांदी जमा करने वालों पर प्रतिबन्ध लगाइये।

इसके अतिरिक्त एक दूसरी बात और कहना चाहती हूँ। श्रीमन्, ट्रांसलेशन, अनुवाद, करने की जो दस साल की मियाद लगाई गई है, उसके द्वारा एक तीव्र प्रहार मंत्री महोदय ने लेखक पर कर दिया है और ट्रांसलेशन करने की जो कंडीशन है, जो

[श्रीमती चन्द्रावती लखनपाल]

शर्त है, वह ऐसी है कि उसमें न बेचारा लेखक पूछा जायेगा, न उसकी राय ली जायेगी और न ही उसे कंसेशन के तौर पर या पारिश्रमिक के तौर पर कुछ दिया जायगा। इससे ज्यादा और अन्याय लेखक के प्रति क्या हो सकता है? मुझे यह जान कर प्रसन्नता हुई है कि मंत्री महोदय इस दिशा में सोच रहे हैं और अनुकूल दृष्टि से सोच रहे हैं। मैं इस पर और ज्यादा नहीं कहूंगी क्योंकि इस पर मुझ से पहले माननीय सदस्य दिनकर जी और श्री राजेन्द्र प्रताप सिन्हा ने बहुत कुछ कहा है और मैं उनके विचारों से बहुत कुछ सहमत हूँ।

श्रीमती सावित्री निगम (उत्तर प्रदेश) : अध्यक्ष महोदय, मेरे विचार से यह विधेयक लेखकों और साहित्यकारों आदि को एक प्रकार से संरक्षण और उत्साह देने वाला है। मेरा विश्वास है कि आज का दिन भारतीय साहित्य के इतिहास में चिरस्मरणीय दिन रहेगा। सदियों के बाद सौभाग्य से आज यह दिन आया है जब सरस्वती के उन वरद पुत्रों, दरिद्रता जिनकी चिर संगिनी रही है, शोषण जिनके दरवाजे पर हमेशा फेरे किया करता था, उनके बचाव और उन की राहत के लिये एक प्रकार से सरकारी प्रयास हो रहा है। इसलिये मैं इसका हार्दिक स्वागत करती हूँ और शिक्षा मंत्री महोदय को हार्दिक बधाइयाँ देती हूँ।

इसमें सन्देह नहीं है कि जैसा अभी चन्द्रावती बहन जी ने कहा, लेखकों का इतिहास एक अश्रु लिखित इतिहास रहा है। मैं समझती हूँ कि इस सदन में शायद ही कोई ऐसा सदस्य हो, जिसे भारतीय साहित्य और साहित्यकार का कुछ भी पता हो और उसका हृदय लेखकों और साहित्यकारों की आर्थिक कठिनाई और क्षोभजनक स्थिति से द्रवित न हुआ हो। हाँ, एक आध ऐसे लोगो को छोड़ दीजिये जिन्होंने शैक्सपीयर और सौमरसेट आदि

की मनोरंजक जीवनियाँ पढ़ कर उनकी सम्पन्नता से चकाचौंध हो कर, आज जब भारतीय लेखक को थोड़े अधिकार मिलने जा रहे हैं, तो उनको कुछ ईर्ष्या हुई हो। श्रीमन्, उनकी भी कोई गलती नहीं है। बात यह है कि अपने विचार से उन्होंने कौन की कित बें छपवा करके दो के आठ बनाने वालों को, दो चार हजार रुपया इधर उधर खर्च करके उन किताबों को कोर्स में लगवाने वालों को साहित्यकार समझा है जोकि हजारों की सम्पत्ति उपाजित कर लेते हैं। ऐसे व्यक्तियों को साहित्यकारों की पंक्ति में बिठाना साहित्यकारों का अपमान करना है और साहित्य को कलंकित करना है। जामेट्री, एलजबरा या चक्रवर्ती की किताबें, जिनकी चर्चा श्री कृष्णचन्द्र जी ने की, मैं उनसे नम्रतापूर्वक कहना चाहती हूँ कि ये क्रियेटिव साहित्य की पंक्ति में नहीं रखी जा सकतीं।

श्री किशन चन्द (आन्ध्र प्रदेश) : क्या डिटेक्टिव नावेल्स भी लिटेरेचर है?

श्रीमती सावित्री निगम : उन्होंने यह भी कहा कि जासूसी और रोमांटिक कहानियों की बड़ी अच्छी बिक्री है। मैं समझती हूँ कि केवल अच्छी बिक्री के कारण ऐसी किताबों को कभी भी साहित्य की पंक्ति में नहीं रखा जा सकता। ऐसी किताबों को तुरन्त समाज की रक्षा के लिये बन्द किया जाना चाहिये। उनकी बिक्री से उपाजित किया हुआ धन पाप की कमाई है, पुण्य की कमाई नहीं है और उसे कोई सच्चा साहित्यकार लेना पसन्द नहीं करेगा। इसलिये श्री कृष्णचन्द्र जी ने साहित्यकारों को जो अमीर बताया है, उसके लिये मुझे बहुत ही खेद है और क्षोभ है।

श्रीमन्, इस विधेयक का जो अब रूप है, यह पहले से बहुत ही इम्प्रूव्ड है। इसे देख कर हमें बड़ा ही संतोष होता है। इस के लिये मैं माननीय मौलाना साहब का

और उन सब साहित्यकारों को, जिन्होंने प्रयत्न करके इसको यह रूप दिया, हार्दिक धन्यवाद देती हूँ ।

एक बात और यह कही गई कि बर्न कनवेंशन और ब्रसेल्स कनवेंशन से यदि हम अलग हो जायें तो हमें क्या नुकसान होगा । हमने जब विश्व को कुटुम्ब माना है और यही ध्येय लेकर हमने पंच-शील के सिद्धांतों को अपनाया है जिससे आज सारी दुनिया के देश हमारे देश को अपना नेतृत्व सौंपने को तैयार हैं और हमारे प्राइम मिनिस्टर को वे शांति का अग्रदूत माने हुए हैं, ऐसे समय इस प्रकार के आर्ग्यूमेंट देना नितांत अशोभनीय है । अगर हम थोड़े से लालच में पड़ कर मनमाना विदेशी लेखकों की पुस्तकों का अनुवाद कर लेंगे तो थोड़े से लालच के लिये हम अपने को उन सिद्धांतों से दूर कर देंगे जिनकी प्रतिष्ठा के लिये हमने बहुत त्याग और तपस्या की है । एक छोटा सा मामला ले लीजिये । जब स्वेज का मामला चला तो यह स्पष्ट था कि उसमें हमारी दखलन्दगी का बहुत बड़ा मूल्य चुकाना पड़ेगा और उन लोगों की मित्रता, जिनकी मित्रता हमारे देश के लिये आर्थिक दृष्टि से और अन्य सब दृष्टियों से बहुत बहुमूल्य थी, उसको हमने नैतिकता, सत्य और अहिंसा की रक्षा के लिये खतरे में डाला और हमने ईजिप्ट का साथ दिया । जब हमारे देश के महान नेता नैतिकता की रक्षा के लिये, सत्य की रक्षा के लिये इतने बड़े बड़े त्याग करने के लिये, इतना बड़ा मूल्य चुकाने के लिये तैयार रहते हैं, तब हमारा यह दलील देना कि हम भी उन के साहित्य का मनमाना अनुवाद कर लेंगे कहां तक उचित है । इस थोड़े से लाभ के लिये हम इस प्रकार की बातें रखें या लालच में पड़ कर अपने सिद्धान्तों को छोड़ दें, यह हमारे लिये ही नहीं बल्कि पूरे देश के लिये बड़ी दुर्भाग्य की बात होगी । यह तो दलील बिल्कुल उसी तरह हुई कि अगर हम मनमानी करना चाहें तो हम यूनाइटेड नेशन्स

से अलग रहें । यह मैं मानती हूँ कि इस तरह की दलील से कोई भी कभी सहमत नहीं होगा । हमें यह नहीं भूलना चाहिये कि एक अनैतिकता हजार अनैतिकताओं को जन्म देती है । फिर क्रिएटिव आर्ट चाहे किसी देश का हो, लेखक और साहित्यकार चाहे किसी भी देश के हों, सरस्वती के भक्त उनको समान दृष्टि से देखते हैं । किसी भी देश के लेखक का या साहित्यकार का शोषण एक भी साहित्य से प्रेम करने वाला व्यक्ति स्वप्न में भी देखना पसन्द नहीं करेगा । बर्न कनवेंशन के साथ गठबन्धन केवल इसलिये किया गया था कि साहित्य ऊंचा उठे और साहित्यकारों और लेखकों को रक्षण मिले । इसलिये उससे अलग होने की बात सर्वथा अनुचित है ।

श्रीमन्, इस विधेयक का मुख्य उद्देश्य है लोगों की सृजनात्मक शक्तियों की रक्षा करने और उन्हें उत्साहित करने के लिये सरस्वती के वरद पुत्रों को जीने योग्य सुविधायें देना ताकि वे साहित्य सृजन सुविधा और शान्तिपूर्वक कर सकें ।

इसके साथ ही साथ एक चीज और भी है । जो चिरकाल से साहित्यकारों का शोषण हो रहा है उसको भी किसी न किसी तरह से बन्द किया जाय । सदियों से अब तक बराबर यह होता आया है कि अपनी समस्त विद्वता, योग्यता और क्रिएटिव शक्ति लगा कर लेखक जो भी साहित्य सृजन करता था, उसको, जीवन की साधारण जरूरतों को पूरा करने के लिये उसे मजबूरी से उन लोगों के हाथों बेचना पड़ता था । अब की मजबूरी से बजा आनन्द के लिये हमेशा तैयार रहते थे । औरों के मैं क्या कहूँ, मुझे स्वयं सन् ४२ के विद्रोह इंडिया आंदोलन में अपनी गृहस्थांशु नामक पुस्तक को प्रयाग महिला विद्यापीठ को केवल १२० रुपये में बेचना पड़ा । उस पुस्तक को उन्होंने बाद में हाई स्कूल ग्रीष्म

[श्रीमती सावित्री निगम]

बिद्या विनोदिनी आदि कोसों में चलाया और उससे हजारों लाखों रुपया कमाया। रायलिटी वगैरह की बात जाने दीजिये, उन्होंने उसकी वह ५० प्रतियां, जो उन्होंने मुझे वैसे ही देने को कही थीं, अब तक नहीं दीं।

श्रीमन्, जब एक बार हमने यह स्वीकार कर लिया है और इसी आधार पर तमाम लेखकों को संरक्षण मिल रहा है, उनको ५० वर्ष तक कापीराइट का अधिकार हम दे रहे हैं तो फिर ट्रांसलेशन के लिये उसका १० वर्ष किया जाना कितना अनुचित है और मैं जानती हूँ, मेरा विश्वास है कि इसका सरकारी तौर से अमैजमेंट करने के लिये श्रीमाली जी जो कि कितने विचारशील हैं अथवा ही कुछ न कुछ कोशिश करेंगे। श्रीमन्, एक बहुत बड़ा मुकसान १० वर्ष रखने से हमें और होगा और वह यह कि हमने कापीराइट बिल को बने कंवेंशन से सामंजस्य करने के लिये ५० वर्ष रख कर बनाया है तो फिर इस १० वर्ष को रखने से उसमें एकरूपता नहीं आने पायेगी। यदि आप चाहते हैं कि किताबों का जो ट्रांसलेशन हो वह सुन्दर, स्वस्थ और सही हो तो यह आवश्यक हो जाता है कि किसी पुस्तक का अनुवाद होते समय लेखक और अनुवादक दोनों की सहमति हो, दोनों का सहयोग हो और सामूहिक प्रयास हो और सभी किसी पुस्तक का एक उचित रूप से सही सही ट्रांसलेशन हो सकता है। यदि इस विधेयक को इसी तरह से रहने दिया गया तो क्या होगा? होगा यह कि जो भी अनुवादक अंधाधुन्ध जिस तरह से भीतोड़ मरोड़ कर पुस्तकों का अनुवाद करना चाहेंगे वह करेंगे और लेखक को, जिसकी कि किताबें बिकेंगी, उस बेचारे को एक पैसा भी नहीं मिलेगा। मैं यह भी बता देना चाहती हूँ कि ऐसे लेखक जिनकी पुस्तकों का बारह बारह और तेरह तेरह भाषाओं में अनुवाद हुआ है वे भूखों मरते हैं। उनमें से एक नाटककार को मैंने अपनी आंखों से भूखे मरते हुए देखा है

जिनके नाटकों का सात या आठ भाषाओं में अनुवाद हो चुका था, उनकी ऐसी दयनीय दशा थी।

भारतीय साहित्यकार जिसका जीवन सदा त्याग और तपस्या पर निर्भर रहा है, वह पैसे की उतनी परवाह भी नहीं करता और वह भूखे रह कर भी मां सरस्वती की आराधना करने के लिये प्रस्तुत रहा है और रहेगा और इस मॉनिटरी कंसीडरेशन को अभी छोड़ दें तो भी इस अनैतिकता के अवार पर जो ट्रांसलेशन होगा वह कैसा होगा इसको भी आप सोचें, मूल कृति की कितनी तोड़ मरोड़ उसमें की जायेगी इसका भी अनुमान आप लगायें। पैसे की लेखक कभी परवाह नहीं करते लेकिन जब वे अपनी मूल कृति की तोड़ मरोड़ होते देखेंगे तो उनका हृदय टूट जायगा और उनकी आत्मा बिल्कुल कुचल जायगी। इसके अतिरिक्त उन के नाम का जो एक्सप्लायटेशन होगा, जो शोषण होगा और उनके नाम पर अनुवादक की लिखी हुई पुस्तक जो बिकेगी वह समाज और जनता को कितना धोका देने वाली होगी। मान लीजिये कि कोई व्यक्ति प्रेमचन्द जी के नाम को जानता है, उनके नाम को सुना है और कोई अन्य भाषाभाषी उनकी पुस्तक को लेना चाहता है और यदि उसे उनके बजाय अनुवादक का पागलपन और प्रलाप बढ़ने को मिले तो उसे कितना बड़ा धोखा हो जायगा। इस लिये हम लोग ट्रांसलेशन की धुन में पागल से हो कर ऐसा गलत कदम न उठायें जिससे कि लोगों को सही सही अनुवाद ही पढ़ने को न मिल सके। इसलिये मैं श्रीमाली जीसे फिर प्रार्थना करती हूँ कि जिस तरह से उन्होंने कापीराइट का अधिकार दिया है उसी तरह से ट्रांसलेशन के लिये भी ५० वर्ष कर दें, अगर वह कहते हैं कि इससे ट्रांसलेशन होने में असुविधा होगी, कठिनाइयां होंगी तो मैं उनसे कहना चाहती हूँ कि वह किसी भी लेखक से बात करके देख लें। किसी भी लेखक के लिये यह बड़े गौरव, गर्व और सुख

की बा होती है कि उस की पुस्तक का उस की रचना का, ट्रांसलेशन दूसरी भाषा में हो इसलिये कभी भी कोई लेखक अगर उचित टर्म्स उसके सामने रखे जायें तो यह चाहेगा ही नहीं कि उसकी पुस्तक का अनुवाद न हो और कभी भी वह उसमें रुकावट डालेगा ही नहीं। फर्ज कीजिये कि अगर कभी कोई ऐसा अविज्ञेकी व्यक्ति मिल ही जाय तो फिर आपके पास अधिकार है, कापीराइट बोर्ड के पास अधिकार है वह उसको जबरदस्ती करा ले। इसलिये उसको उचित पारिश्रमिक मिले और उसकी सहमति हो, इन दो बातों का अमेंडमेंट जरूर लाया जाना चाहिये और उसको अवश्य स्वीकार किया जाना चाहिये।

श्रीमन्, दो शब्द में रजिस्ट्रेशन के विषय में भी कहना चाहती हूं। मेरा मानना है कि रजिस्ट्रेशन से लेखकों को लाभ ही हो सकता है, मगर हां, उससे उत्पन्न होने वाली कठिनाइयों के बारे में मुझे भी चिन्ता है। मेरा कहना है कि उसे आटोमैटिक बना दिया जाय, जैसे ही कोई पुस्तक प्रेस में आये वैसे ही उसका आटोमैटिक सा रजिस्ट्रेशन हो जाय और प्रकाशक पर ही, जो कि सुविधा सम्पन्न होता है, यह जिम्मेदारी डाली जाय कि वह किताब का रजिस्ट्रेशन करा दे, तो बड़ा अच्छा होगा। इसके अतिरिक्त एक माननीय सदस्य ने यह सुझाव भी दिया था कि रजिस्ट्रेशन की फीस दो आना कर दी जाय, यह भी एक बड़ी अच्छी बात है। जो तीन चार सजेशंस इस सदन में दिये गये हैं उन्हें तो आपको स्वीकार कर ही लेना चाहिये क्योंकि बिना इनके स्वीकार किये जो बिल की खूबी है, विशेषता है वह अधूरी ही रह जायगी।

श्रीमन्, एक बात और है। जैसा कि माननीय दिनकर जी ने कहा यदि आप चाहते हैं कि देश में स्वस्थ साहित्य का

सृजन हो तो साहित्यकार को पूरी स्वतंत्रता, आर्थिक, बौद्धिक और हर प्रकार की स्वतंत्रता दीजिये और यह बात भी बिल्कुल सच है, मैं यह बात चेलेज दे कर कह सकती हूं कि जिन देशों में लेखकों पर बन्धन लगाये गये हैं उन देशों के लेखक, लेखक नहीं चारण बन कर रह गये हैं, वे केवल सरकार की गुण-गाथा गाने वाले चारण बन कर रह गये हैं। रूस जैसे सर्वोन्नत देश में इन पिछले २० वर्षों में लिखी गई एक भी ऐसी पुस्तक नहीं मिली जिसको कि भारतीय विचारकों ने इस योग्य समझा हो कि उसका हिन्दी में अनुवाद किया जाय। जिन सदस्यों ने यह कहा कि किसी देश का सेट-अप, पोलिटिकल सेट-अप, राजनीतिक ढांचा, किसी प्रकार का क्यों न हो लेकिन लेखकों पर उसका कोई असर नहीं पड़ता है यह उन का बिल्कुल विभ्रम है। उसका असर पड़ता है। रूस की जो मिसाल मैंने दी वह उसका जीता जागता सबूत है।

श्रीमन्, एक बात मैं और कहना चाहती हूं। इसमें जो १० वर्ष के एडिशन की अवधि लगाई गई है वह साफ नहीं मालूम होती है। इसमें यह साफ नहीं किया गया है कि १० वर्ष जो गिना जायगा वह प्रथम एडिशन के बाद गिना जायगा या द्वितीय एडिशन के बाद गिना जायगा। अगर प्रथम एडिशन के बाद गिना जायगा तो यदि ६ वर्ष के बाद दूसरे संस्करण में लेखक उस किताब को बिल्कुल बदल दे या उस को दुगना कर दे तब ऐसी हालत में एक साल के बाद ही कोई अनुवादक उसका अनुवाद कर सकता है और इस तरह से लेखकों का शोषण होगा और एक बड़ा जबरदस्त शोषण होगा। यह बड़ी खतरनाक बात है। इस को साफ किया जाना चाहिये। मैं समझती हूं कि अगर दूसरे संस्करण के बाद से गिना जाय तो अच्छा होगा यों तो मेरा अनुमान है कि १० वर्ष की जगह ५० वर्ष अवश्य ही मान लिया जायगा।

[श्रीमती सावित्री निगम]

अन्त में, श्रीमन्, मैं इतना और कहना चाहती हूँ कि जहाँ माननीय श्रीमाली जी ने इतना किया है, लेखकों को राहत पहुंचाने का इतना प्रयत्न किया है वहाँ इन छोटे छोटे संशोधनों को भी अवश्य स्वीकार कर लें, जैसे कि सिन्हा साहब ने १० वर्ष की अवधि जो ट्रांसलेशन के बारे में है उसके लिये संशोधन जो रखा है उसको स्वीकार कर लें, दूसरे यह एडिशन के बारे में और तीसरे रजिस्ट्रेशन के बारे में जो संशोधन हैं, सुझाव हैं उनको स्वीकार कर लें। मैं सोचती हूँ कि अगर उन्होंने उनको स्वीकार कर लिया तो यह विधेयक सर्वांगपूर्ण बन जायगा और साहित्यिक परम्परा में एक नवीन, सुखद एवं कल्याणकारी क्रान्ति लाने का श्रेय माननीय श्रीमाली जी को अवश्य मिलेगा। धन्यवाद।

Mr. CHAIRMAN: Shrimati Lilavati Munshi, I think you will be the last speaker, and Dr. Shrimali will reply. We must complete all stages of this Bill before this evening.

[Mr. DEPUTY CHAIRMAN in the Chair]

श्रीमती लीलाती मुंशी (राजस्थान) :
उपाध्यक्ष महोदय, मैं आज जब यहां आई तब इस बिल पर बोलने का मेरा कोई इरादा नहीं था मगर मैं कापीराइट बिल की समिति की एक सदस्या थी और यहां जो एक दो चीजें रखी गई हैं उनके लिये एक, दो शब्द बहुत संक्षेप में कहने के लिये मैं खड़ी हुई हूँ।

यहां बड़ी जोशीली तकरीरें एक, दो बातों पर ज्यादातर हुई। एक तो जो ५० साल का कापीराइट लेखक को दिया उसके बारे में और एक इस बारे में कि सिर्फ १० साल का भाषान्तर के बारे में कापीराइट है। उसमें दो विचारधाराएँ हैं। एक विचारधारा ऐसी है कि ५० साल की अवधि कम करनी चाहिये क्योंकि हमेशा के लिये पुस्तकें

प्राइवेट प्रापर्टी के रूप में न हों। मैंने किशन चन्द जी के भाषण को तो नहीं सुना लेकिन ऐसी विचारधारा किसी किसी की होगी। इसी रीति से समिति में भी रखा गया था। दूसरी विचारधारा यह है कि ५० साल भी क्यों हों, जैसे दूसरी जायदादें लोगों को मिलती हैं उसी रीति से लेखक को भी हमेशा के लिये कापीराइट का अधिकार होना चाहिये। तो इसके लिये मैं पहले यह कहना चाहती हूँ कि मैं ५० साल के पक्ष में हूँ जोकि हुआ है क्योंकि पहले जो बिल रखा गया था वह २५ साल के लिये था मगर सबका खयाल यह हुआ कि उसको बढ़ाना चाहिये क्योंकि जैसा कि श्रीमती चन्द्र वती लखनपाल ने बताया कि दूसरों को जब अपनी सम्पत्ति पर अधिकार है और अपनी सम्पत्ति को अपनी बीबी बच्चों के लिये रखने का अधिकार है तब सिर्फ लेखकों को अपने बीबी बच्चों के लिये कुछ प्रबन्ध करने न देना ठीक नहीं है। वह सिर्फ अन्याय होगा। लेखक में और दूसरी जायदाद वाले में एक फर्क होता है। जैसे कि किसी का मकान है, किसी के पास जेवर है, तो उसका असर दूसरों पर नहीं पड़ता, वह तो अपने घर और रिश्तेदारों के ऊपर पड़ता है। मगर जो पुस्तक होती है, उसमें जो विचार होता है, कल्पना होती है उसका असर संसार पर और सारे समाज पर पड़ता है, जेवर को आप बन्द रख सकते हैं, मगर आइडियाज के बारे में कहा जाता है : Ideas have wings. अगर आप विंग्स को हमेशा के लिये बन्द कर देंगे तो उसका फायदा समाज को नहीं पहुंचेगा। आप यह समझिये कि अगर एक लेखक मर गया, उसके बाद अगर मृत्यु के समय उसका लड़का एक साल का भी हो तो ५० साल की उम्र तक वह ठीक से रह सकता है, उसकी रचनाओं से उनके बीबी बच्चों को फायदा मिलता रहेगा।

हमारा देश किससे बढ़ा है ? अपनी पुस्तकों से। रामायण, महाभारत, भागवत

ग्रन्थ बहुत पुराने समय से हमारे यहां हैं। आप कहेंगे कि उस जमाने में हमेशा के लिये लेखक को कापीराइट नहीं मिला था। अगर आज किसी ने वैसे ग्रन्थ लिखे तो उनका कापीराइट हो जायगा। तो दो प्रकार की विचारधारायें हैं और दोनों में तथ्य है, एक यह कि लेखकों को अपने बीबी बच्चों के लिये कुछ बंदोबस्त करने का अधिकार होना चाहिये। यह ठीक बात है। लेकिन जो चीज विग्रज वाली होती है उसको हम हमेशा के लिये बांध कर नहीं रख सकते हैं, नहीं तो हो सकता है उसको चुरा कर दूसरे लोग दूसरे स्वरूप में रख देंगे। ऐसी हालत में यह ठीक ही है कि ५० साल बाद किसी पुस्तक का कापीराइट न रहे। दूसरा यह है कि समय बहुत कम रखा गया तो इसकी वजह से बहुत दिक्कत होगी क्योंकि हमारे यहां पुस्तक लोकप्रिय होने में बहुत समय लगता है। जिस पुस्तक का कापीराइट न हो उसके लिये अपने वाला मिलना भी मुश्किल होता है। मैं समझती हूं कि समिति ने जो यह निर्णय किया है कि ५० साल का समय रहे वह सोच समझ कर ही किया है और उसे कायम रहना चाहिये।

दूसरी एक विचारधारा है भाषान्तर के बारे में। भाषान्तर के लिये दस साल क्यों रखा गया, इसको भी ५० साल क्यों नहीं बढ़ाया? इसमें एक बड़ी दिक्कत हमारे सामने आती है। हिन्दुस्तान में १४ भाषाएं हैं और हर एक भाषा की प्रगति के सम्पर्क में आना दूसरी भाषा के लिये और देश की एकता के लिये बहुत जरूरी है। हमारे देश की विचारधारा बहुत पुराने समय से बनती चली आ रही है। मगर आज हमारा समाज नये ढांचे में बदल रहा है। ऐसी अवस्था में कोई नये विचार अगर हिन्दी में हो या किसी और भाषा में हों वे गुजराती में या मराठी और देश की अन्य भाषाओं में जा जायेंगे तो उससे एक दूसरे

की प्रगति में समानता होगी। अगर आप किसी लेखक की रचना को ५० साल तक एक ही भाषा के अन्दर बन्द रखेंगे तो देश उस विचारधारा से वंचित रह जायगा और सम्भव है ५० साल बाद वह पुस्तक भुला दी जाय, या शायद उसका भाषान्तर करने वाला भी कोई न मिले। शायद कोई ही लेखक इतना प्रख्यात हो जिसे दूसरी दूसरी भाषाओं का ज्ञान हो और उन भाषाओं के लेखकों को जानता हो और उनकी भाषा को समझ सकता हो, लेकिन बहुत से लेखक ऐसे हैं जिनको मालूम नहीं है कि दूसरी भाषा वाले कहां तक पहुंच गये हैं क्योंकि वे अन्य भाषाओं को नहीं समझते हैं वे अपनी पुस्तक का ट्रांसलेशन कराने से वंचित रह जायेंगे। यदि आप कहें कि ५० साल के लिये उनकी पुस्तकें बन्धी रहें और तब तक लेखक जिन्दा भी न हो तो यह ठीक बात नहीं रहेगी। अगर हमें सारे देश के दृष्टिकोण से देखना है तो मैं यह मानती हूं कि दोनों चीजें जो समिति ने बनाई हैं वह ठीक उसी अंश में कायम रहनी चाहियें। इसलिये आपने जो यह कानून बनाया है उसको मैं ठीक समझती हूं और इस बिल का समर्थन करती हूं।

THE MINISTER OF STATE IN THE MINISTRY OF EDUCATION AND SCIENTIFIC RESEARCH (DR. K. L. SHRIMALI): Mr. Deputy Chairman, I am grateful to hon. Members for the appreciation which they have shown for the changes that have been made by the Joint Select Committee in this Bill. There are, however, two points which have aroused some controversy. I am, however, not surprised because even in the British Parliament, long debates have taken place on this subject. This is a Bill in which every aspect arouses a great deal of controversy. Now, the question has been raised whether the book is a property or not; whether the creation of an author or of an artist should be classed with

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other kinds of work, such as that of landed property. Sir, I am prepared to concede that the fruit of the brain is a property. Nobody should deny this. The author should have a full right over his creation. Just as a person who, through manual or mechanical labour, produces something and owns it as a property, the author through his intellectual labour should certainly have a right over his intellectual creation. But the point at dispute is whether it is a natural right or a right entirely dependent upon Statute. Now, this question was discussed in the British Parliament several years back. The question came before the House of Lords in the famous case of *Donaldson vs. Becket* and judges were directed to attend that case. It was held by the majority of the judges that the common law right which an author had to copyright in his works became merged in the statutory right conferred by the Copyright Act then in force (8 Anne, c. 19) upon publication. Sir, from time to time, this question has been raised, but the decision on this case finally decided that there is nothing like a perpetual right in the matter of copyright and that after publication, an author has to base his claim for protection upon the statutory right. It is no more a natural right.

Now, Sir, in this connection since a great controversy has been raised, I should like to read some extracts from the Report of the Copyright Committee which was presented to the British Parliament in October, 1952. The Report says:

"The argument that a continuing right should subsist in property which is the product of the author's own brain is one which cannot fail to make an appeal, even if only for reasons of sentiment. It can be argued with force that property in the product of a man's brain deserves as much protection as property in the product

of his hands and that, unprotected, it is more open to subsequent mutilation, with possible reactions on his reputation. Nevertheless, the principle of perpetual copyright in published works is one which has been foreign to our law for at least 200 years, and it is quite contrary to the tendency of the times for the State to grant an unlimited right of the kind sought. The public at large has an overwhelming interest in the reproduction of literary, dramatic and musical works, and we are satisfied that it would be quite impossible to justify a right in perpetuity."

Sir, I raise this specific point because I think it was Dr. Barlingay who said that this right should be perpetual. Now when we say that it should be perpetual, we forget that the public is vitally interested in the creation of the author. And the Report goes on to say that "It may be added that we are satisfied that the difficulties of establishing who is the true owner of a copyright work after a period of years are so substantial as to render the proposal impracticable, even if it were desirable in principle." Now, Sir, some of the other countries like France have gone a step forward by changing this very conception of property.

"The Court of Cassation had put an end to the hesitancy of judicial practice by declaring (*Chambre des Requetes*, July 25, 1887, *DALLOZ*, 1888, 1,5) that the author's rights are whether in common parlance or in legal parlance incorrectly given the name of property; that, far from constituting property such as the Code Civil has defined and regulated for movables and immovables, it only gives those who are entitled to it an exclusive privilege of temporary exploitation."

Now, Sir, it will be clear from this that there is nothing like an absolute right as far as writings or crea-

tions of intellectual people are concerned. The very fact that the public is vitally interested in the creation of an author puts certain limitations on it. I do wish to respect the rights of the author, and I think the Bill which is before Parliament has accepted the principle. In fact, by extending the period to 50 years we have gone in line with most of the countries in the world who are the signatories to the Berne Convention. I must say I was rather surprised that many Members of Parliament felt that this Bill would destroy the rights of the authors and would discourage all creative work. Sir, as far as protection of property is concerned, we will have to take into account different kinds of property and we will have to understand what the scope of protection for each kind of property is and whom it is going to affect. We have also to take into account what its nature is and the appropriate benefits and burdens caused by private ownership. We must remember that this intellectual property is a kind of monopoly. Yesterday I pointed out that it imposes some burdens on readers and competing publishers. In defining the scope of protection for this property we will have to take into account three factors. Firstly, the author must be supplied direct or indirect pecuniary return as an incentive to creation and he must have control over the marketing of his creation. There can be no denying this fact. As far as the author is concerned, for his full lifetime he will enjoy the fruits of his creation. I am also in sympathy with those Members of Parliament who said that since the family was dependent on the authors, we would have to take that also into account. So, for the surviving family there will be a period of 50 years when they can enjoy the fruits of creation. Of course, if there is a prolonged monopoly, then it will be an abuse on the part of the family, and it is for that reason that we do not wish to give unlimited monopoly in this matter. We have also to take into

account the publisher and we must also see that the publisher continues to get a proper pecuniary return for the investment which he makes. The publisher gives birth to the author's work. The author gives birth to his creation but he is dependent on publishers. If there are no good publishers, then it will be difficult for the authors to survive. When we are considering the interests of the authors, we should not ignore the interests of the publishers. Sir, as I said, these various interests will have to be taken into account when we are considering this question of the intellectual property. And to my mind, the present Bill tries to meet the various conflicting interests and it attempts to harmonise them.

Then, Sir, another point has been raised with regard to the translations of the works of the authors. According to the present Report of the Joint Select Committee, after a period of 10 years the works of the authors go in public domain. The authors have an opportunity to translate their works if they so choose for a period of 10 years. Now, why is it that we do not want to make it co-extensive with the terms of the copyright of the original work? Sir, our country is a multi-lingual country. It is not a unilingual country and we should not do anything which would stop the dissemination of knowledge from one part of the country to another. In fact, we should create an atmosphere in which the translations of works from one language to another may take place more quickly and more speedily so that our culture might unify and we might have a united country.

SHRI J. S. BISHT (Uttar Pradesh): But it should be compensated in some form or other.

DR. K. L. SHRIMALI: I am coming to that.

MR. DEPUTY CHAIRMAN: I think you will take some more time.

DR. K. L. SHRIMALI: Yes, Sir.

MR. DEPUTY CHAIRMAN: Then you can continue after lunch.

The House stands adjourned till 2-30 P.M.

The House adjourned for lunch at one of the clock.

The House re-assembled after lunch at Half past two of the clock, Mr. DEPUTY CHAIRMAN in the Chair.

DR. K. L. SHRIMALI: Sir, I was referring to the clause which relates to the translation of works. As I said, the main purpose which motivated the Joint Committee to make this provision was that opportunities should be given to people to take advantage of the works written in various languages. It is only through translations that culture can be disseminated in this country. Ours is not a uni-lingual country. It is a multi-lingual country, and if we put restrictions in the way of translating works, we put restrictions in the way of the advancement of knowledge itself. It is therefore necessary to make the process of translating works from one language to another an easy one. It was with that purpose that this provision was made. I must say that I do see the force of the arguments which have been advanced against this provision. It does create some hardship for the authors, because they are deprived to some extent of their rights after a period of ten years. I am, however, willing to accept the amendment which has been proposed by my friend, Mr. Sinha, with slight alterations. There is some advantage in it. The amendment which has been moved by Mr. Sinha is on the lines of the Universal Copyright Convention to which India is a signatory. Some Members have suggested that the right of translation should be co-extensive with the copyright for original work, i.e. for a period of fifty years. If we accept that suggestion, it would mean that it would not be

possible for us to translate the works of foreign authors for a period of fifty years, because they will enjoy the same privileges as our own authors enjoy in this country. Now, we know that Indian languages and Indian literature have to go a long way to enrich themselves. We have to produce not only original works in our own languages, but we have to translate many works from foreign languages. If we make this right of translation co-extensive with copyright, it may mean that we shall not be able to translate the works of foreign authors, and I am quite sure that the House would not like to put that barrier in the path of intellectual advancement. That the best alternative under the circumstances is to accept the amendment which has been very ably and thoughtfully moved by my hon. friend, Mr. Sinha. It would bring us in line with the countries which have signed the Universal Copyright Convention. It will also enable us to translate works after a period of seven years. The authors will not be able to stand in the way of translations. It is for the Copyright Board to determine whether a work should be translated or not, after a period of seven years. As I said at an earlier stage, when we are considering this Bill, we have to consider the various interests concerned. I have every sympathy with the authors, who in this country live under very difficult circumstances, but we have also to consider the interests of posterity, the future generations. We must consider the interests of our society in general. If we think of the authors only and make this right co-extensive with the term of the copyright, what would be the result? Probably the authors may gain—again that is a doubtful gain—but it will be detrimental to the general interests of society. I am therefore satisfied with the amendment which has been moved by my friend, Mr. Sinha. It meets the interests of the authors; it also meets the interests of the general public. We have to reconcile these conflicting interests.

Now, Prof. Wadia raised an interesting point, with regard to the reassignment of the copyright of a publication. It is quite true that in this country authors under very difficult circumstances sometimes part with their works for practically nothing. They are being exploited by the publishers. There is no denying that fact, and it was with this in view in the original Bill the Government put forward a proposal that after a period of seven years the author could get back the copyright. This question was very thoroughly examined in the Joint Committee, and there were representatives in it of the various interests including the authors themselves.

SHRI B. V. (MAMA) WAREKAR (Nominated): Who was the author there?

DR. K. L. SHRIMALI: Mr. 'Dinkar' was there. I will explain.

The Committee felt that if this provision for the re-assignment of the copyright to the author was accepted, it would work against the interests of the authors themselves. The argument was that the publisher in the earlier stages makes an investment. He spends some money on advertisement. When a book is published, in order to capture the market, the publisher has to spend some money for two or three years, and just when it becomes popular and brings him a good return, the author will come to him and say, "Look here, will you please return this book to me?" If the publisher is so uncertain about the future of the book, if the publisher is always uncertain about his publication, and if he knows that after a period of seven years he is not going to get any return on the investment he has made, do you think that any publisher would take any interest in pushing that book in the market?

After all, business is business and publishing is a business and we should not ignore this hard reality. As I said, I have my full sympathies

with the authors but, at the same time, we must remember that without the help of the publishers, the interests of authors will not be promoted. It is true that there are publishers who exploit the authors but it is also true that there are able publishers who bring the authors in public limelight. They are both inter-dependent to some extent. If we kill the goose that lays the golden egg, there will be no goose to lay the eggs. If we destroy the publishers, I am afraid we may not enjoy big fruits of intellectual creation. Sir, this is the point which has to be borne in mind. In the original Bill Government had made this provision but I myself felt that this would probably work against the interests of the authors themselves and, therefore, this was deleted by the Joint Select Committee.

Another point which was raised by Prof. Kane was with regard to the limits which we have put on the authors when they are employed by newspaper proprietors or agencies. Again, Sir, it is a question of conflicting interests. We may always say, if we have to choose between authors and publishers that we are on the side of the authors; if we have to choose between a composer and a gramophone company we can always say that we are on the side of the composer; if we have to choose between an artist and a manufacturing society we can say that we are on the side of the artist. Our sympathies naturally go to people who create new things in life but we have to remember that we have to reconcile to some extent the conflicting interests which are, to some extent, inter-dependent and, therefore, though I have my full sympathies for the authors, I think that we must also give a fair opportunity to the newspaper proprietors. The author writes an article when he is in the service of the newspaper proprietor and it is, therefore, natural that he should have full rights as far as the publication of that article in the magazines and

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newspapers is concerned. We have, of course, made a provision that when the author wants to produce a book, then certainly he will have his copyright. We have split this right into two parts and that again was done with a view to reconciling the conflicting interests.

There was another point raised by Prof. Kane with regard to new editions. He said that new editions should get the copyright and I think he has also moved an amendment to that effect. Now, Sir, I have examined the Bill very carefully and I find that new editions will be covered by this Bill.

DR. P. V. KANE (Nominated): Suppose a work is called "The History of India" and a new edition comes after ten years. Could this be covered?

DR. K. L. SHRIMALI: New edition is a new work.

DR. P. V. KANE: My point is that this must be made clear in the Bill itself.

DR. K. L. SHRIMALI: I am making it clear. I have got it examined and it was not considered necessary. I got it examined by the Law Ministry and they thought that it was not necessary if the new edition is a complete reproduction of the past edition.

MR. DEPUTY CHAIRMAN: He will have to get a fresh copyright.

DR. K. L. SHRIMALI: He gets the copyright in the new edition.

DR. P. V. KANE: There is nothing expressly provided in this Bill itself. The wording is "work" and a new edition may be of several hundred new pages.

SHRI NIHAR RANJAN ROY (West Bengal): New edition is a new book.

DR. K. L. SHRIMALI: That is what I have said.

DR. P. V. KANE: Is it so given in the definition?

DR. K. L. SHRIMALI: Then, Sir, there was another point.

SHRI H. D. RAJAH (Madras): There is no answer to this question.

DR. K. L. SHRIMALI: I have already said that the new editions will get copyright as soon as the book is published.

With regard to Parliamentary proceedings, a point was raised, I think, by Mr. Nair. He saw no reason for putting any restriction on them. Now, article 105 (2) of the Constitution expressly provides that no person shall be liable to any proceedings in respect of the publication by or under the authority of either House of Parliament or of any report, paper, votes or proceedings. Publication of Parliamentary proceedings has all along been treated as a matter of privilege by Parliament. Now, article 105 (3) does no doubt enable Parliament to make laws defining or re-defining privileges but, Sir, in my humble opinion, the Copyright Bill is not the proper place for touching upon the privileges of Parliament. Publication of Parliamentary proceedings does enjoy copyright but it has always been up to the House concerned to permit publication or republication thereof. This position need not be altered at least by the provisions of the Copyright Bill.

Well, Sir, these are the main points that were raised in the course of the debate and, as I have said, I am certainly in full sympathy with the authors but they must take into account the various other interests that are affected and the most important interest is that of the society in general. The author does not exist in a vacuum. The individuality of the genius does not express itself in isolation. In protecting the interests of the authors, we should not forget the interests of the society in general. That is all that I have to submit. Thank you, Sir.

SHRI PERATH NARAYANAN NAIR (Kerala): I did not have the question of privilege in my mind. I just wanted to know whether I would be infringing the copyright if I reproduced the speeches of hon. Members of Parliament, in so far as it affects the copyright law. I think exemptions have been given in clause 51A; we have also to take into account the definition of "Government work" given in clause 2(k). I think there was some talk about it.

DR. K. L. SHRIMALI: Publication of parliamentary proceedings is a matter of privilege and you can publish them only with the permission of Parliament.

PROF. R. D. SINHA "DINKAR": We are all very glad that the hon. Minister has agreed to accept the amendment of Mr. Sinha. Now as a result of that I think sub-clause (b) of clause 50 . . .

MR. DEPUTY CHAIRMAN: You may make your remarks when we take up the particular clause. Only if you want any clarification you may ask for it now. So I will put the question to the House.

The question is:

"That the Bill to amend and consolidate the law relating to copyright, as reported by the Joint Committee of the Houses, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration of the Bill.

Clause 2—Interpretation

MR. DEPUTY CHAIRMAN: There are two amendments.

SHRI PERATH NARAYANAN NAIR: I move:

3. "That at page 1, line 10, for the word 'means' the word 'includes' be substituted."

15 RSD.—3.

DR. K. L. SHRIMALI: I move:

4. "That at page 3, after line 20 the following be inserted, namely:—

'(kk) 'Indian work' means a literary, dramatic or musical work, the author of which is a citizen of India;'"

MR. DEPUTY CHAIRMAN: Any remarks?

SHRI PERATH NARAYANAN NAIR: Sir, mine is quite a non-controversial and, I think, a very necessary amendment. Here "adaptation" means in relation to a dramatic work, the conversion of the work into a non-dramatic work and in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise. Of course it does mean all those things. But my point is that "adaptation" should mean something more. The definition as given here is, to my mind, rather restrictive and definitive. Suppose a dramatic work is converted into an opera, that also should come under "adaptation" but I am not sure. Under this definition, because it is so restrictive, it may not come within the orbit of "adaptation". So I want the word "means" to be substituted by the word "includes" so that the definition can be a little more exhaustive.

DR. K. L. SHRIMALI: Sir, I do not accept that amendment because, if we accept it, the definition would rather become vague and what is excluded would not be clear. I therefore oppose this amendment.

SHRI PERATH NARAYANAN NAIR: But where is the actual difficulty which you feel?

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 1, line 10, for the word 'means' the word 'includes' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

4. "That at page 3, after line 20, the following be inserted, namely:—

'(kk) "Indian work" means a literary, dramatic or musical work, the author of which is a citizen of India;."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clauses 3 to 11 were added to the Bill.

Clause 12—*Powers and Procedure of Copyright Board*

MR. DEPUTY CHAIRMAN: What about your amendment, No. 32, Mr. Dinkar?

PROF. R. D. SINHA "DINKAR": Sir, my amendment reads as follows:

"That at page 7, line 14, after the word 'Act' the word 'usually' be inserted."

I do not want to move this amendment, Sir, but I do want to know from the hon. Minister whether this relates only to hearing of cases of its own zone or even of a branch office.

DR. K. L. SHRIMALI: Sir, the hon. Member is probably aware that the Copyright Board will work through various branches in different zones, and the zones are the same as we have accepted them in the States Reorganisation Act. I am quite willing to accept the amendment provided he moves it substituting the word "ordinarily" for the word "usually" proposed by him, and that will make it more precise.

PROF. R. D. SINHA "DINKAR": Yes, Sir, I am prepared to accept the

change proposed by the hon. Minister and I move:

32. "That at page 7, line 14, after the word 'Act' the word 'ordinarily' be inserted."

MR. DEPUTY CHAIRMAN: The question is:

32. "That at page 7, line 14, after the word 'Act' the word 'ordinarily' be inserted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 12, as amended, stand part of the Bill."

The motion was adopted.

Clause 12, as amended, was added to the Bill.

Clause 13—*Works in which copyright subsists*

MR. DEPUTY CHAIRMAN: There is one amendment of Dr. Shrimali.

DR. K. L. SHRIMALI: I move:

5. "That at page 9, for lines 1 to 3, the following be substituted, namely:—

'(3) Copyright shall not subsist—

(a) in any cinematograph film if a substantial part of the film is an infringement of the copyright in any other work;

(b) in any record made in respect of a literary, dramatic or musical work, if in making the record copyright in such work has been infringed."

MR. DEPUTY CHAIRMAN: The clause and the amendment are before the House.

SHRI RAJENDRA PRATAP SINHA (Bihar): Sir, I would like to oppose this amendment. I draw your attention to the fact that by this amendment the present sub-clause (3) is

sought to be substituted. The present sub-clause (3) is at page 9 of the Bill and it reads: "Copyright shall not subsist in any cinematograph film or record if in making such film or record the copyright in any other work has been infringed." Now this is being changed. As the sub-clause stands at present, if any infringement takes place, the film is supposed to have infringed the copyright law. Now what is proposed to be done here is this that if a substantial part of the film infringes the copyright in some other work, then only the film will be regarded as having infringed the copyright; not otherwise. Now, I would like hon. Members to appreciate one point in this respect. Now the film producers are very powerful, both financially and organisationally. Now they may not come to terms with regard to any work which they want to reproduce in their film. They will ignore the composer or the author and force him to go to law courts if he thinks that his work has been infringed. Now there are cases in which one sentence, one couplet or one stanza makes or mars the box office success of a film, and the instances can be multiplied. Now the film producers will borrow certain portions, will take them in their film and will refuse to pay anything to the composers, particularly the song composers, or the story writers or others and will refuse to have anything to do with the author of those songs or of writings. Professor Dinkar has an amendment by which he wants to define the short passages and to specify that two such passages should not exceed twelve lines, and he said that page after page was being borrowed now. Now if we say "a substantial part", a good portion of a whole song or a good part of a story may be taken up by the producers and they will fight out any case instituted, and prove that it is not an infringement of the copyright since a substantial part of the film has not been borrowed from someone else's. I know of a film "New Delhi", which was put on the screen here and which was produced by some of the Bombay producers, and now the poor author is fighting out a case here in the

Supreme Court and the other courts. There is no law to protect the authors in such an event. Therefore I maintain that the amendment proposed is not in the interests of the composers and the writers and the authors. We discussed this point very effectively in the Joint Select Committee itself. The question was examined and we came to the conclusion that if we put in the words "substantial part of the film", then the film producers will always go scot-free and the poor authors and composers will be put to great loss. Now there may be cases of hardship—I understand that—but if we have the sub-clause in the Bill replaced by the proposed amendment, then it will not be a question of hardship but it will be giving free licence for piracy and for abuse.

3 P.M.

In this connection I would like to draw your attention to the note of dissent of Shri Avinashilingam at page XV. Now he is also of the same opinion that cases of hardship should be provided for and he has suggested that there must be some method by which hard cases should be looked into and relief provided to the film producers but he has also said that we should not give a free licence for piracy which is what we are actually doing if we accept this amendment. Therefore I oppose it.

DR. K. L. SHRIMALI: Sir, I am sorry I have to make one correction in clause 12. The word 'ordinarily' should be inserted after the word 'shall' in line 13 and not after the word 'Act' in line 14.

MR. DEPUTY CHAIRMAN: You want it before the word 'hear'? You can do that after we finish all the clauses.

DR. K. L. SHRIMALI: With regard to clause 13, if the House accepts the clause as it stands, it will mean that we will be denying absolutely copyright for the entire cinematograph film even if a small portion of the film infringes copyright in any other work. When a film producer is pro-

[Dr. K. L. Shrimali.]

ducing a film, it is quite likely that unawares he might insert something about the copyright of which he is not fully aware. If he inserts such a thing, then he will have to forego copyright for the whole film. Sir, we know what a colossal amount the producers have to invest and for a small infringement they may have to sacrifice enormous amounts of money. Certainly I would like to respect the rights of the composers but at the same time let us not forget that sometimes insertions may be made unawares and it is with that in view this amendment has been moved. Of course, if there is an infringement, the persons concerned can always claim damages or get injunctions in the ordinary course. There is nothing to prevent them from taking such action. I would therefore suggest that this amendment may kindly be accepted.

MR. DEPUTY CHAIRMAN: The question is:

5. "That at page 9, for lines 1 to 3, the following be substituted, namely:—

'(3) Copyright shall not subsist—

(a) in any cinematograph film if a substantial part of the film is an infringement of the copyright in any other work;

(b) in any record made in respect of a literary, dramatic or musical work, if in making the record copyright in such work has been infringed."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill.

Clause 14—Meaning of copyright

DR. RADHA KUMUD MOOKERJEE (Nominated): Sir, I move:

45. "That at page 9, at the end of line 18, after the word 'work' the words 'or publish a revised edition of the work' be inserted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are before the House.

DR. RADHA KUMUD MOOKERJEE: Sir, I would like.....

MR. DEPUTY CHAIRMAN: He has explained already.

DR. RADHA KUMUD MOOKERJEE: I understand that he is sympathetic towards this amendment but I do not know yet whether this amendment is accepted by him.

MR. DEPUTY CHAIRMAN: He feels that it is not necessary. He said so earlier while replying to the general debate.

DR. RADHA KUMUD MOOKERJEE: In that case I have to say something. Sir, this amendment has been really suggested by me from my own personal experience as an author. I felt I was about to expire as an author till I have been saved by the merciful provision of this Bill. My first work was published as far back as 1912 in London and it is now 45 years old. At that time the publishers in London thought that they might ask me to bring out a revised edition of the book. I have already agreed and this revised edition of the book is about to be published. Now I want to have a clarification of my position as an author under this Copyright Bill as to whether this revised edition will count as a new book or whether he will tag it on to the old edition.

DR. K. L. SHRIMALI: The new edition will be counted as a new book.

DR. RADHA KUMUD MOOKERJEE: I am very glad to hear that.

Now, Sir, my hon. friend Mr. Kishen Chand has been always thinking in terms of the limitations of the rights of property that should apply to the author. In that connection I should say that perhaps he is making a very ungenerous differentiation between the two forms of property. I wish to remind him of his old days in Cambridge when he was wedded to science and mathematics and probably believed more in the value of intellectual and spiritual property, but subsequently he has turned his attention towards the more material and mundane forms of property....

SHRI M. SATYANARAYANA (Nominated): He has become more liberal now.

DR. RADHA KUMUD MOOKERJEE: I wish to know how he can differentiate between the intellectual property of the author and the ordinary mundane and material property. I should think that the same rights of property should hold in both cases and any idea of limitation of rights to property of the poor authors is not fair. The poor author is universalised no doubt but you must not forget that he must earn his living from his object of creation. Shakespeare may have been universalised but you don't allow Shakespeare's wife to go into starvation as she really did. So I do not at all know why my friend has changed his point of view so much. He began very well as a devoted student of mathematics and.....

SHRI KISHEN CHAND (Andhra Pradesh): The hon. Minister himself is definite that there is a difference in the property rights and the Supreme Court judgment is also there. Why should my friend select me only as the target of his attack? I can certainly answer him but.....

DR. RADHA KUMUD MOOKERJEE: Since fundamental questions are being freely discussed I thought it was my duty here to point out the other side of the picture. Why should the author's right in his work of creation be limited and why should not the same property rights be allowed to the author?

MR. DEPUTY CHAIRMAN: Anyway there is no amendment by Mr. Kishen Chand to this clause.

DR. RADHA KUMUD MOOKERJEE: No; he has threatened that he will have the limitation placed.

SHRI KISHEN CHAND: Later when I move my amendment he can answer that.

DR. RADHA KUMUD MOOKERJEE: I thought I should anticipate him and cut the ground under his feet or take the wind out of his sails.

However, I want to know from the Minister whether we should not specifically add these words 'or publish a revised edition of the work.' Why should you be harsh on the poor author? Why should you leave him in doubt as to whether a revised edition would be counted a new book or not. For instance, in the book that I mentioned earlier I have brought in new statistics and figures about the position of Indian shipping in these days and those facts and figures are very necessary in order to bring the book quite up to date. So I do not see any reason why the Minister should not be pleased to accept this small amendment.

DR. K. L. SHRIMALI: If you would kindly permit, I would read an extract from "Copinger's Copyright". He explains the whole position. He says: "It is thought that the position with regard....." (*Interruption.*) It explains our point of view.

MR. DEPUTY CHAIRMAN: His fear is that if you accept the principle, why don't you specifically put it in the Bill?

DR. K. L. SHRIMALI: It is unnecessary. After all, you can go on expanding it. I have fully examined it. It is quite unnecessary.

SHRI R. C. GUPTA (Uttar Pradesh): It is not unnecessary. In order to put this beyond doubt, it is necessary that Dr. Mookerjee's amendment should be

[Shri R. C. Gupta.]
accepted. Otherwise, there would be a lot of litigation with regard to the interpretation of the wording.

MR. DEPUTY CHAIRMAN (looking to Dr. K. L. Shrimali: Yes, same reply, not acceptable. Do you want me to put it to vote, Dr. Mookerjee?

DR. RADHA KUMUD MOOKERJEE: I want to know definitely whether it is included in this.

MR. DEPUTY CHAIRMAN: Yes, he said so. It is included.

SHRI RAJENDRA PRATAP SINHA: Will the hon. Minister kindly read out the extract which he has been reading out?

DR. RADHA KUMUD MOOKERJEE: If it is included in the proposal, why not . . .

MR. DEPUTY CHAIRMAN: He says it is unnecessary and your fears are unfounded.

DR. RADHA KUMUD MOOKERJEE: Supposing we as authors fear, I think that we should be allowed to be judges of our work better than those who are not authors.

DR. K. L. SHRIMALI: This has been fully examined by the Law Ministry. If you would permit me, it reads as follows:—

"It is thought that the position with regard to new editions of existing works is not quite the same since the commencement of the Copyright Act, 1911, as it was before. Under the Act of 1842, no action could be brought in respect of infringement of copyright in a book, unless the book was duly registered at Stationers' Hall. Consequently, if a new edition were registered, and the date of publication entered as the date of publication of the new edition, it has to be considered whether the new edition, regarded as a whole, was a new book or not. If it were a new book,

the registration was correct; if it were only the old book with slight variations, then the registration was invalid.

But it would appear that such considerations are not now of importance. The Court has not to consider whether a work has been properly registered, but whether there has been any infringement of any original work done by the editor of the new edition. Such original work may consist of additions or alterations of the text which, if they are not merely trivial, will, it is though, be protected in the same way as any other original literary work, whether they form a substantial part of the complete work or not; or they may consist of new arrangement of the existing subject-matter. With regard to the latter, it would seem that the same considerations arise as in the case of alterations of any other existing subject-matter. For instance, in the case of *Blacklock v. Pearson*, it was held that the index to a new edition of Bradshaw was an original work. Joyce, J., said: 'A book which consists of a specification of the conditions at the present moment of a constantly changing subject-matter is a new work even though some of the particulars given may not have altered from what they were, and were stated to be, at some prior date, perhaps years before.'

It is quite clear as far as I am concerned.

DR. RADHA KUMUD MOOKERJEE: Sir, I still think that in order to avoid litigation and the depressing doubts in the minds of the authors. . .

MR. DEPUTY CHAIRMAN: Yes, I will put it to vote.

DR. RADHA KUMUD MOOKERJEE: why not it be made clear?

MR. DEPUTY CHAIRMAN: After the Minister's reply you cannot have another reply from him. I am putting the amendment to vote. We cannot go on at this rate.

MR. DEPUTY CHAIRMAN: The question is:

45. "That at page 9, at the end of line 18, after the word 'work' the words 'or publish a revised edition of the work' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

Clauses 15 and 16 were added to the Bill.

Clause 17—*First owner of copyright*

SHRI PERATH NARAYANAN NAIR: Sir, I move:

6. "That at page 11, for the existing clause 17, the following be substituted, namely:—

"17. *First owner of copyright.*—The author of work shall, in the absence of a contract to the contrary, be the first owner of the copyright therein'."

DR. P. V. KANE: Sir, I move:

33. "That at page 11, line 25, after the word 'contract' the words 'in writing' be inserted."

(*The amendment also stood in the name of Prof. A. R. Wadia.*)

MR. DEPUTY CHAIRMAN: The clause and the amendments are before the House.

SHRI PERATH NARAYANAN NAIR: With regard to amendment No. 6, the Bill concedes the principle that ordinarily the ownership of the copyright must vest in the author and under this clause 17, exceptions are made. Exceptions are made in the case of productions of journalists and authors who are employed, where in the absence of a contract to the contrary, the ownership will vest with the proprietor. In the course of my general

remarks I have had occasion to point out the manifest injustice involved in this. First, a question of principle is involved. Now, when you make an exception in the case of a principle, ordinarily it will be better if you do it by specific agreement. That is not so provided for under this clause. Again, the hon. Minister himself was good enough to say that if he were to choose between the weaker party and the stronger party in any contract, he would always side the weaker party. And it is obvious that as between the employee journalist and the author on the one side and the proprietor on the other side, naturally the weightage must be in favour of the employee and not against him. Now, according to my amendment, I simply reverse the position. It is not my point that the author's ownership must in no case be restricted. I concede that in certain circumstances it can be made alienable also. But when a provision is made to that effect, if the proprietor has the responsibility to contract into that new right, it means, in effect, that the employee journalist and author will get adequate compensation for that. My whole point is from the point of view of social justice, the employee must not be placed in a position of having to contract into a right as against the proprietor. Now, the ownership of the copyright vests in the proprietor not only in the case of reproduction in his own journals, in his own magazines, but in any other journal and this is quite unfair. So, I say, if this first ownership is taken away from the employee journalist and author, then it must be done by specific agreement. The proprietor must have the responsibility to contract into that new right. And my only point is that in such cases, where it may be found necessary, the journalist—the actual producer—must get adequate compensation. I think it is very reasonable and I trust the hon. Minister would accept it.

DR. P. V. KANE: I only want that the contract should be in writing. Now, if the hon. Minister-in-charge will look at clause 19, he will find that

[Dr. P. V. Kane.]

in the case of assignment of a copyright, it must be 'in writing'. It reads:—

"No assignment**of the copyright in any work shall be valid unless it is in writing signed by the assignor.....".

Why not the same be applied to this contract? Here somebody is engaged in a contract of service and he writes something useful. Here the contract orally may be proved, but if he assigns, then it must be in writing. Why is this difference? I do not see any justification. Why not make the contract 'in writing' here also? I have already explained that the writer generally is a needy man and the capitalist generally can sit tight upon his money. Therefore, they are not well balanced. This law helps those who are rich. Those who are needy can be dominated. Therefore, a contract 'in writing' will give a greater safeguard than mere 'contract'. I do not want to dilate more on this. You have yourself agreed that assignment must be in writing. Why not the original contract for his work be given in writing. I see no logical reason for any difference between the two.

SHRI RAJENDRA PRATAP SINHA: Sir, you will find that this clause 17 is a great improvement upon the original clause 16. This question was very thoroughly examined in the Joint Select Committee. This proviso (a) was introduced in the interests of good journalism in India. You will also find, Sir, that such a clause is being provided in the U.K. Act. Why? It is in the interests of good journalism. You know, Sir, that in order that the correspondents or the working journalists can produce good work, a lot of money has to be spent over them. For example, a journalist or any employee under a newspaper or magazine has to be sent abroad, has to be sent all over India to collect facts and to give a first-hand report and materials. Now a newspaper establishment may have to incur large sums as

expenditure in order that the journalist may produce a first rate work. If that is reproduced only in one journal or paper, probably the cost of getting that work produced will not be covered. Therefore, it has been thought that a newspaper establishment should have the right so that they can sell these articles or writings to other newspapers, and thus one journalist is writing for more than one newspaper although his cost is met by one and then subsequently recovered from others. That is how it is being done in European and American countries. That is why the standard of journalism in those countries is higher.

Now, we are interested not only in our journalists but we are interested in improving the standard of journalism of our journals and newspapers. With that end in view this has been done. You will find, Sir, that this clause has been introduced with all the safeguards for the authors. I would like you to appreciate that only the authors under the employment of newspaper establishments, magazines and journals are affected, and that too for a limited purpose. The writer retains all aspects of the copyright except one, and that is, production in that particular journal or its reproduction in other journals. The newspaper proprietor cannot compile that into a book.

SHRI PERATH NARAYANAN NAIR: Why in other journals?

SHRI RAJENDRA PRATAP SINHA: It has been explained. It is not possible to cover all the cost that has to be incurred today to produce a first class article. With that end in view that has been provided. Therefore, I submit that my hon. friend will consider this question in the interests of journalism. The other countries also have adopted this procedure. Therefore I submit that this amendment may not be accepted.

DR. K. L. SHRIMALI: Sir, I do not think that I have to add anything more to what Mr. Sinha has pointed out. I would only say that law must

have a moral basis. While the journalists are in the service of the newspaper proprietors and when they are getting remuneration for the work they are doing, it is only proper that they should surrender their rights to some extent. This only recognizes the right that newspapers have a right to print it in their own journals and allied journals. As far as the right of the author is concerned, he still has the right to produce a book if he likes.

I would therefore suggest that the amendments be not pressed.

MR. DEPUTY CHAIRMAN: The question is:

6. "That at page 11, for the existing clause 17, the following be substituted, namely:—

'17. *First owner of copyright.*—The author of work shall, in the absence of a contract to the contrary, be the first owner of the copyright therein.'

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

33. "That at page 11, line 25, after the word 'contract' the words 'in writing' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 17 stand part of the Bill."

The motion was adopted.

Clause 17 was added to the Bill.

Clauses 18 to 20 were added to the Bill.

New Clause 20A.—Right of author to relinquish copyright.

DR. K. L. SHRIMALI: Sir, I move:

7. "That at page 12, after line 23, the following new clause 20A be inserted, namely:—

'20A. *Right of author to relinquish copyright.*—(1) The author of a work may relinquish all or any of the rights comprised in the copyright in the work by giving notice in the prescribed form to the Registrar of Copyrights and thereupon such rights shall, subject to the provisions of sub-section (3), cease to exist from the date of the notice.

(2) On receipt of a notice under sub-section (1), the Registrar of Copyrights shall cause it to be published in the Official Gazette and in such other manner as he may deem fit.

(3) The relinquishment of all or any of the rights comprised in the copyright in a work shall not affect any rights subsisting in favour of any person on the date of the notice referred to in sub-section (1).'

MR. DEPUTY CHAIRMAN: Amendment No. 7 is before the House.

DR. K. L. SHRIMALI: It is not necessary for me to say much on this. We are only giving a right to the author to relinquish his right of the copyright. There may be some generous minded authors who might like to relinquish their rights for the sake of the society, for the benefit of the society. It is only to make provision for that purpose that this clause has been introduced.

MR. DEPUTY CHAIRMAN: The question is:

7. "That at page 12, after line 23, the following new clause 20A be inserted, namely:—

'20A. *Right of author to relinquish copyright.*—(1) The author of a work may relinquish all or any of the rights comprised in the copyright in the work by giving notice in the prescribed form to the Registrar of Copyrights and'

[Mr. Deputy Chairman.]

thereupon such rights shall, subject to the provisions of sub-section (3), cease to exist from the date of the notice.

(2) On receipt of a notice under sub-section (1), the Registrar of Copyrights shall cause it to be published in the Official Gazette and in such other manner as he may deem fit.

(3) The relinquishment of all or any of the rights comprised in the copyright in a work shall not affect any rights subsisting in favour of any person on the date of the notice referred to in sub-section (1)."

The motion was adopted.

New clause 20A was added to the Bill.

Clause 21—Term of copyright in published literary, dramatic, musical and artistic works.

SHRI PERATH NARAYANAN NAIR: Sir, I move:

8. "That at page 12, for lines 26 to 30, the following be substituted, namely:—

"21. Except as hereinafter otherwise provided, copyright shall subsist in any literary, dramatic, musical or artistic work—

- (a) if the author of the work lives for ninety years or more, during the life-time of the author; and
- (b) in any other case, until the date on which the author of the work, if living, would have been ninety years of age;

Provided that in no case shall the period be less than twenty years from the first day of the calendar year next following the year in which the work was first published'."

SHRI KISHEN CHAND: Sir, I move:

34. "That at page 12, lines 29-30, for the words 'fifty years from the beginning of the calendar year next following the year in which the author dies' the words 'thirty years from the date of publication or the death of the author whichever is later' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are before the House.

SHRI PERATH NARAYANAN NAIR: Clause 21 relates to the term of copyright. As provided for in the Bill, this copyright subsists for the lifetime of the author and fifty years thereafter. I want to substitute that provision by my amendment. My amendment is to the effect that copyright shall subsist in case the author lives up to ninety years and more; copyright shall subsist for the lifetime of the author. In any other case it shall subsist until that date on which the author, if living, would have attained ninety years of age.

DR. K. L. SHRIMALI: Is there any special reason why the hon. Member fixed ninety years?

SHRI PERATH NARAYANAN NAIR: Yes, I will have to explain that. Of course the hon. Minister himself has said that the monopoly rights of the author have to be restricted. Some limit has to be put in the interests of the reading public, in the interests of the community generally. Having accepted that principle, the question is where we should put that limit. The lifetime of the author and fifty years thereafter have been provided for in the Bill. The purpose of my amendment is clear. I do not want to be hard on the author or the first generation of his children or even the second generation. Ordinarily according to Hindu concepts a person is considered to have lived a full life if he lives up to ninety years. By about sixty the first generation of his sons and daughters would have

settled in life. Ninety means second generation. So, for the full period of ninety years he gets it—the author, as also his sons and even grandsons. So, two generations from the father get the benefit. So, there is no point in saying that I am trying to be hard on the authors. No. I have put ninety years. According to the Hindu conception, the full course of life is about a thousand *purnimas*—100 *varshiya* or something like that. I need not go into it. It is essentially of Sanskrit concept. Anyway, ninety years are taken to be sufficient for that full period. This may be given and this will be the limit. In these 25 or 30 or 50 years, there is something arbitrary. Here, you take the man's full life, provide for his son, his son's son.....

DR. K. L. SHRIMALI: What about the third generation?

SHRI PERATH NARAYANAN NAIR: Third generation? I consider it far too removed to benefit from the ancestors, three generations removed. To that extent, I put the limit there. The hon. Minister has thought it necessary that it must be restricted. So the limit that I would put is ninety years so that there is nothing arbitrary in it. It is very reasonable and I think the hon. Minister will find his way to accept it.

SHRI KISHEN CHAND: Mr. Deputy Chairman, I think the confusion has arisen from the fact that several hon. Members when they spoke, referred always to literature and science and they were all the time talking possibly of some extraordinary creation of a real genius. But, Sir, this copyright applies to all books that are printed. It applies to text-books whether they are for the primary class or for the M.A. class and it applies to all books on travel, adventure, history and science. Nearly three per cent. of the books that are published are scientific and medical books. I realise that in certain cases, there may be a hardship if we restrict the period of copyright to what

I have suggested. Certain great literary giants have been quoted by Prof. Dinkar—Tagore and some such authors. They are great authors. In their case, it will be a great hardship. But the hon. Minister and several hon. Members, tried to ridicule text-books. You yourself, Sir, did not include the text-book in literature. I suppose you are quite right. Several hon. Members thought that scientific books are not literature and probably, they are quite right. Scientific books are not literature, but they are going to get benefit from this Copyright Bill. In this Copyright Bill, I am trying to understand what they mean by literature. Several Members have taken up a negative attitude—"This is not literature." And if you substract everything possible, one in a thousand will be left over and that will be literature and in the case, there will be a hardship. An hon. lady Member today said that no book is a literary work except the one which she has written. Probably, it was published and she got only Rs. 150 and the publisher made lakhs of rupees by prescribing it as a text-book. Opinions differ. People have different ideas about literature. I personally consider Somerset Maugham to be one of the finest literary authors of the present day. Some do not consider him to be a great literary author. When we are giving a copyright, the only criterion should be the greatest good of the greatest number. In our social life, there is no other criterion except the greatest good of the greatest number. When we come to that, I agree that in the case of those great writers who have really produced works of art, who have really created a fine book which will be one in a thousand, there may be a hardship. That may not be recognised in 30 years. It may be recognised after a hundred years and his children may starve. But in the case of 999 books, it will be just one such work. Anybody sits down and writes a book. I suppose every Member of this House can write a story, get it published. It may not sell, but he can certainly write a story and get it published.

[Shri Kishen Chand.]

So, the criterion is not the writing of a book or the publication of it, but its subsequent popularity or unpopularity. Therefore, my contention is that, when this Copyright Bill applies to all the books whether they are text-books or scientific books or, as signified by some hon. Members, literary creations, there we should see that 999 persons are going to take unfair advantage of the society and will keep the price of the book very high and thereby prevent the society from taking advantage of that literature, of reading that book. If you keep the price of a text-book very high, you are depriving young boys and girls who are going to school from reading that book and taking advantage of that. Therefore, my concrete proposal is that the copyright should be for the lifetime of the author or for 30 years whichever is longer. Why I have prescribed 30 years is that it is sufficiently a long period. Of course, if the author lives for fifty years after writing the book, he will have the copyright and enjoy it for these 50 years. The hon. Minister will be satisfied with two generations living on the fruits of that book because even if you assume 25 years to be one generation, then, if the author lives for 50 or 60 years after writing the book, his two generations would be satisfied. If the author dies soon after writing a book, according to my suggestion at least the copyright will continue for 30 years. So, I am trying to satisfy that the society gets the fullest benefit and yet, the author or his progeny is not deprived of its benefits. After all, 50 years after the death of an author is an arbitrary figure and so is my suggestion of 30 years an arbitrary figure. I do not say there is anything sacrosanct in 30 or in 50 years after the death of the author. The object is to reduce the period as far as possible and to permit the society to take the greatest benefit from it, specially in the matter of translation. When that clause comes up, I will give more examples. But, especially in the case of translations, it is very essential

that in our country, when we want to enrich our literature, when we want to increase the spread of knowledge of our languages, we translate foreign books. And if we are going to put restrictions and obstacles in the matter of translation of foreign literature, well, our languages will never be able to develop. I know, Sir, that in the Osmania University, they established a convention in those days superseding the Berne Convention. In the Osmania University, we have a rule that all foreign books can be translated in the Urdu language. We were only paying 10 per cent. of the selling price of the book to the author irrespective of the time of publication. Even after one month after the publication of the book, it was translated into Urdu. I ask, specially in the matter of text-books, is it possible to produce them? We want to make Hindi the medium of instruction in our universities. We want every regional language to be the medium of instruction in our universities. You are not going to produce text-books if you are going to restrict the copyright in such a way that you give to the authors 50 years after their life-time, give them copyright for a hundred years, you will not be able to produce any text-books on higher scientific subjects, higher mathematical subjects, until and unless you go in for the translation of foreign books. Therefore, let us not be led away by too much sympathy for really creative artists. Let us look at this Bill from the point of view of the larger number of people who are going to benefit from it.

DR. K. L. SHRIMALI: Sir, I have to choose a happy medium between the two extremes, one suggested by Shri Perath Narayanan Nair and another by Shri Kishen Chand. I think the happy medium is 50 years, and I hope the House will generally agree with that.

MR. DEPUTY CHAIRMAN: The question is:

8. "That at page 12, for lines 26 to 30, the following be substituted: namely:—

"21. Except as hereinafter otherwise provided, copyright shall subsist in any literary, dramatic, musical or artistic work—

(a) if the author of the work lives for ninety years or more, during the life-time of the author; and

(b) in any other case, until the date on which the author of the work, if living, would have been ninety years of age;

Provided that in no case shall the period be less than twenty years from the first day of the calendar year next following the year in which the work was first published'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

34. "That at page 12, lines 29-30, for the words 'fifty years from the beginning of the calendar year next following the year in which the author dies' the words 'thirty years from the date of publication or the death of the author whichever is later, be substituted.'"

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 21 stand part of the Bill"

The motion was adopted.

Clause 21 was added to the Bill.

Clause 22 was added to the Bill.

Clause 23—Term of copyright in posthumous works

MR. DEPUTY CHAIRMAN: There are two amendments, Nos. 9 and 37. No. 37 of Shri Kishen Chand is barred.

DR. K. L. SHRIMALI: Sir, I move:

9. "That at page 13,—

(i) in lines 33-34, the words 'or an adaptation of any such work' be deleted;

(ii) in line 37, after the words 'but which' the words 'or any adaptation of which' be inserted; and

(iii) at the end of line 40, after the words 'first published' the words 'or' where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year' be inserted."

Sir, this is merely an amendment of drafting nature.

MR. DEPUTY CHAIRMAN: The question is:

9. "That at page 13,—

(i) in lines 33-34, the words 'or an adaptation of any such work' be deleted;

(ii) in line 37, after the words 'but which' the words 'or any adaptation of which' be inserted; and

(iii) at the end of line 40, after the words 'first published' the words 'or, where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year' be inserted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 23, as amended, stand part of the Bill."

The motion was adopted.

Clause 23, as amended, was added to the Bill.

Clause 24 was added to the Bill.

Clause 25—Term of copyright in cinematograph films

DR. K. L. SHRIMALI: Sir, I move:

10. "That at page 14, lines 11-12, for the words 'a certificate for public exhibition in respect of the film is granted under section 4 of the cinematograph Act, 1952' the words 'the film is published' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are now before the House.

DR. K. L. SHRIMALI: I might just explain that the clause, as it stands, applies only to films in respect of which such certificates are given. This clause is silent about the copyright in films in respect of certificates either not granted or not applied for, and this amendment merely attempts to remove that lacuna.

MR. DEPUTY CHAIRMAN: The question is:

10. "That at page 14, lines 11-12, for the words 'a certificate for public exhibition in respect of the film is granted under section 4 of the Cinematograph Act, 1952' the words 'the film is published' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 25, as amended, stand part of the Bill."

The motion was adopted.

Clause 25, as amended, was added to the Bill.

Clauses 26 to 29 were added to the Bill.

Clause 30—Compulsory licence in works withheld from public

DR. K. L. SHRIMALI: Sir, I move:

11. "That at page 15,—

(i) in line 1, for the words 'any work' the words 'any Indian work' be substituted;

(ii) in line 16, for the words 'it is in the interests of the general public so to do' the words 'the grounds for such refusal are not reasonable' be substituted; and

(iii) for lines 25 to 27, the following be substituted, namely:—

'Explanation.—In this subsection, the expression 'Indian work' includes—

(i) an artistic work, the author of which is a citizen of India; and

(ii) a cinematograph film or a record made or manufactured in India'."

SHRI KISHEN CHAND: Sir, I move:

38. "That at page 15, line 20, after the words 'such compensation' the words 'subject to a maximum of ten per cent of the sale price' be inserted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are now before the House.

SHRI KISHEN CHAND: Sir, this really refers to a book. Where the author is not publishing a book or allowing its republication, there the matter is referred to the Board, and if anybody applies for a licence, the Copyright Board can give that book to the person applying for licence for publication purposes, and then the Board has got to decide what percentage of the proceeds should be given as remuneration to the author. That thing is left entirely vague and is left at the mercy of the Board. The Board can fix any percentage as a share for the author. Naturally, the author is not permitted the republication of his book in order to earn a large amount

of money. And therefore if we keep it vague, the Copyright Board may give a higher percentage from the proceeds of the books as the share of the author. The whole object of my amendment is to keep down the prices of books, and naturally if you keep the share of the author at the maximum level of 10 per cent., the price of the book will be lower. So, I have suggested here that the maximum percentage which can be given to the author shall be 10 per cent. of the sale price of every copy that is sold. I gave you an example that in the Osmania University we used to publish translations of foreign books. Supposing the price of a book was Rs. 10. For every book that was sold the author got one rupee and every month the account was settled. So you will have to prescribe some such method. In every case this 10 per cent. of the sale price of the book should be the share of the author. That is my suggestion.

SHRI RAJENDRA PRATAP SINHA: Sir, I want to oppose the amendment moved by Dr. Shrimali.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): May I submit, Sir, that before any hon. Member is called upon to oppose this amendment by Dr. Shrimali, will he be pleased to enlighten us as to what are the real implications of his amendment?

DR. K. L. SHRIMALI: Sir, the main purpose of this amendment is this. As it is, the clause is contrary to the provisions of the Berne Convention in so far as it relates to public performance. Now when we are making an order under clause 39, we shall have to exclude the operation of this clause in regard to foreign works because we are signatories to the Berne Convention. It would mean that this clause has to be given effect to only in respect of the Indian works, and it is much better to make this position clear here rather than making the modification under clause 39.

SHRI JASPAT ROY KAPOOR: Am I right, Sir, in presuming that we are dealing with clause 30 and the hon. Minister is referring to amendment No. 11?

DR. K. L. SHRIMALI: Yes, that is the position.

DR. K. L. SHRIMALI: Then, the proviso, as it is, will make the whole clause completely ineffective. The whole purpose of this clause is that the authors should not have the right to refuse to republish or allow the republication of the work. If we accept the proviso as it is, then there can be no question of compulsory licence. In order to remove these difficulties and to make the granting of compulsory licences easy, these amendments have been made. The proviso will be substituted by the new explanation.

SHRI RAJENDRA PRATAP SINHA: As has been pointed out, this deals with the compulsory licensing of works. It has been very rightly pointed out by the hon. Minister that this would only deal with Indian works. So far as amendments (i) and (ii) are concerned, I am in perfect agreement with him. They are necessary, but I oppose the deletion of the proviso.

DR. K. L. SHRIMALI: The proviso as it is?

SHRI RAJENDRA PRATAP SINHA: You can add the explanation, but I would like the retention of the proviso.

DR. K. L. SHRIMALI: Would not the proviso make the entire clause ineffective?

SHRI RAJENDRA PRATAP SINHA: I will explain my position. I would like hon. Members to appreciate that, when an application has been made to the Copyright Board, the Copyright Board has to examine the whole question, and there are certain limitations placed upon the Copyright Board in granting a compulsory licence. One of them is that the man who wants the

[Shri Rajendra Pratap Sinha.]
 licence must pay compensation to the author. Now, there is a further limitation on the grant of such licences and it is this: It is what is provided for in the proviso:

"Provided that no such licence shall be granted in respect of any work if the owner of the copyright in the work has withdrawn the work from further circulation."

I do not think that this proviso is against the Berne Convention. It is the moral right of an author to withdraw his work from circulation. He may have changed his ideas. There are several cases where authors have withdrawn their works from circulation and they are entitled to it. It is the moral right of the author to withdraw any of his works from circulation. What does this proviso say? It says that if a work has been withdrawn from circulation by the owner of the copyright, no compulsory licence shall be given. This clause merely deals with the production and the performance of a work which has been withheld from the public for one reason or the other. Now, the Copyright Board will have to examine whether it is meet and proper for such a licence to be given or not. These things are dealt with in the main body of the clause itself. It has been specifically provided here that in case a work has been withdrawn from circulation, the Copyright Board has no power to grant such a licence. It is the moral right of the author to withdraw any work from circulation, and we must respect that right. Nowhere in the Berne Convention or in the Universal Copyright Convention have I come across any provision by which this moral right of the author is denied. The Copyright Board has the right, after proper examination and scrutiny, to give a licence for its publication or performance, but in no case and under no circumstances should the Board be empowered to take away this moral right of the author. This will go against the Berne Convention and the Universal Copy-

right Convention. The position is contrary to what the hon. Minister has said. The Berne Convention and the Universal Copyright Convention do not contemplate the forcing of an author to allow his work to be published or performed if even for good reasons or bad reasons he has withdrawn the work from circulation. They recognise this right which we should also recognise. I do not object to the addition of this explanation. We may add this explanation but we should retain the proviso.

SHRI JASPAT ROY KAPOOR: Sir, the amendment suggested by the Hon. Minister splits itself into three parts. So far as part one is concerned, I have nothing to say. I am in agreement with it. So far as part two is concerned, I have something to submit and I hope that the hon. Minister, on reconsideration of the subject, will find that the original phraseology of this clause, particularly that part of the clause which he now seeks to amend by (ii) of his amendment, was a much better one. I will read only the operative portion of the clause.

"If at any time during the term of copyright in any work.....

'in any Indian work' as is now proposed to be amended by the hon. Minister—

".....which has been published or performed in public, a complaint is made to the Copyright Board that the owner of the copyright in the work—

(a) has refused to republish or allow the republication of the work....." etc.

At the moment, we are concerned with only these words "has refused to republish or allow the republication of the work". Then, what happens?

".....the Copyright Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied....

The following are the words which are now sought to be amended.

".....if it is satisfied that it is in the interests of the general public so to do....."

Now, these words are now sought to be substituted by the words "if it is satisfied that the grounds for such refusal are not reasonable". Originally it was in the positive form. Now it is in the negative form. Originally, what was intended was that, if the Board were satisfied that the granting of a licence was necessary in the interests of the general public, then a licence should be granted. That is the proper thing to do. The only criterion should be the interests of the general public. Now, for these words, it is proposed that these words should be substituted:

"the grounds for such refusal are not reasonable".

Now, Sir, a person may have refused to republish his work because of financial exigencies. Suppose an author or the copyright holder has not the necessary finances to republish his book, then such a ground for refusal to republish would be a reasonable one. No Board can hold that if a publisher or copyright holder does not have the necessary finance to republish his work, such a ground for refusal to republish it is unreasonable. It is perfectly reasonable. So, I submit that the original wording might be retained so that, if it is in the interests of the general public to republish a book, a licence to another person may be granted to publish it, even if the original copyright holder has not the necessary finance or wherewithal with him. So much for this,
4 PM. Sir, I hope the hon. Minister will reconsider his position in this respect.

Now, Sir, with regard to the third part, it would have been, of course, much better if it had been clearly told to us in advance that the proviso is sought to be deleted altogether and that a new explanation is sought to be added. That would have been a much
15 RSD.—4.

better and a fairer way of putting the amendment but then, as it is, I am almost entirely in agreement with the idea that the proviso as it stands should go; if it is to be retained, then, as suggested by my friend, Mr. Sinha, it must be certainly in an entirely different form. My hon. friend, Mr. Sinha, has argued a little too much on the basis of some morality or immorality involved in respect of this proviso. He says that it is the moral right of every author to withdraw any publication and further says that the grounds may be reasonable or unreasonable. Sir, I fail to understand as to how there can be any moral right vested in anybody to do anything on unreasonable grounds. The proviso is a much wider one than Mr. Sinha thinks it to be. He has all the time been saying that it is the moral right of the author but this proviso gives the right not only to the author but to the owner of the copyright fifty years after the death of the author so that this is not a limited proviso but one of a very wide implication. I, therefore, hope that the hon. Minister will not submit to the opposition of Mr. Sinha. I do not know how his mind is working but if feels anything like that, if his moral conscience has been roused by Mr. Sinha's appeal, I hope he will let me suggest something more. I hope he is not inclined to retain it.

DR. K. L. SHRIMALI: Sir, my moral conscience has not been roused.

MR. DEPUTY CHAIRMAN: Mr. Dinkar wants to say something.

PROF. R. D. SINHA DINKAR: I have a very small suggestion to make. It was after great consideration that we put in this proviso in the Joint Committee. There was some discussion about this question and instances were cited before the Committee that great authors have, from time to time, withdrawn their compositions. So I think this proviso should be left there. I do not disagree with any of the other amendments brought in by the hon. Minister; I only want that the proviso and the explanation should both be there.

DR. K. L. SHRIMALI: Sir, my conscience has not been awakened either by the entreaties of my hon., friend, Mr. Jaspal Roy Kapoor.....

SHRI JASPAT ROY KAPOOR: I never attempted that.

DR. K. L. SHRIMALI:or my friend, Mr. Sinha. The whole purpose of this clause is that we must make provision for not allowing any author to withhold any work of public importance from the public. If in the opinion of the Copyright Board a work is found to be of public importance, then the public should have a right of access to that work. Now, Sir, ordinarily such a thing may not happen. Ordinarily authors will be too glad to circulate the works but we may have a case where for certain reasons, selfish or otherwise, an author may like to withhold that work. If we keep the proviso as it is, it makes the whole clause ineffective and it will defeat the very purpose of the whole clause. Therefore, I would like to press the amendment which I have moved.

MR. DEPUTY CHAIRMAN: What about the other amendment?

DR. K. L. SHRIMALI: I am not accepting.

SHRI JASPAT ROY KAPOOR: What about part II of the amendment? The original wording was very much better. Things should be done in public interest irrespective of the fact whether the publisher was justified or not in refusing it. On personal grounds he may not be able to republish the book. Let it be published by the Board.

DR. K. L. SHRIMALI: In my opinion the phrase as amended is better than the previous wording.

SHRI JASPAT ROY KAPOOR: But the case that I have cited.....

MR. DEPUTY CHAIRMAN: You cannot go on repeating your arguments. He is not accepting your suggestion. I am putting the amendment.

SHRI JASPAT ROY KAPOOR: Let it be split into three parts, Sir.

MR. DEPUTY CHAIRMAN: No.

The question is:

11. "That at page 15,—

(i) in line 1, for the words 'any work' the words 'any Indian work' be substituted:

(ii) in line 16, for the words 'it is in the interests of the general public so to do the words 'the grounds for such refusal are not reasonable' be substituted: and

(iii) for lines 25 to 27, the following be substituted; namely:—

"*Explanation.*—In this subsection, the expression 'Indian work' includes—

(i) an artistic work, the another of which is a citizen of India; and

(ii) a cinematograph film or a record made or manufactured in India".

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

38. "That at page 15, line 20, after the words 'such compensation' the words 'subject to a maximum of ten per cent. of the sale price' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 30, as amended, stand part of the Bill."

The motion was adopted.

Clause 30, as amended was added to the Bill.

Clause 31—Licences for public performance.

DR. K. L. SHRIMALI: Sir, clause 31, as it stands, is repugnant to the Berne Convention. I am, therefore, going to propose that the clause should be deleted.

SHRI RAJENDRA PRATAP SINHA: If the clause is to be deleted, I do not want to move my amendment number 13.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 31 stand part of the Bill."

The motion was negatived.

New clause 31A

MR. DEPUTY CHAIRMAN: This has been accepted by Dr. Shrimali.

DR. K. L. SHRIMALI: I have some slight modifications, Sir.

SHRI RAJENDRA PRATAP SINHA: They have been incorporated.

SHRI JASPAT ROY KAPOOR: Is it not the same as we have got?

SHRI RAJENDRA PRATAP SINHA: There are some slight verbal changes. That is all.

MR. DEPUTY CHAIRMAN: I shall read it.

SHRI RAJENDRA PRATAP SINHA: Sir, I beg to move:

14. "That at age 16, after line 10, the following new clause 31A be inserted, namely:

"31A. (1) Any person may apply to the Copyright Board for a licence to produce and publish a translation of a literary or dramatic work in any language.

(2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation of the work.

(3) Every applicant for a licence under this section shall,

along with his application, deposit with the Registrar of Copyrights such fee as may be prescribed.

(4) Where an application is made to the Copyright Board under this section, it may, after holding such enquiry as may be prescribed, grant to the applicant a licence, not being an exclusive licence, to produce and publish a translation of the work in the language mentioned in the application, on condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the translation of the work sold to the public, calculated at such rate as the Copyright Board may, in the circumstances of each case, determine in the prescribed manner:

Provided that no such licence shall be granted, unless—

(a) a translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorised by him, within seven years of the first publication of the work, or if a translation has been so published, it has been out of print,.....

(b) the applicant has proved to the satisfaction of the Copyright Board that he had requested and had been denied authorisation by the owner of the copyright to produce or publish such translation, or that he was unable to find the owner of the copyright;

(c) where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for such authorisation to the publisher whose name appears from the work, not less than two months before the application for the licence;

[Shri Rajendra Pratap Sinha.]

- (d) the Copyright Board is satisfied that the applicant is competent to produce and publish a correct translation of the work, and possesses the means to pay to the owner of the copyright the royalties payable to him under this section;
- (e) the author has not withdrawn from circulation copies of the work, and
- (f) an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work'."

MR. DEPUTY CHAIRMAN: The amendment is before the House.

SHRI JASPAT ROY KAPOOR: Just a word at this stage, Sir, I have to draw the hon. Minister's attention to part (e) of this amendment, which runs counter to the principle enunciated and the decision already arrived at with respect to the proviso to clause 30. The principle enunciated by the hon. Minister with which I was in agreement was that even if the author has withdrawn anything from circulation, even then, it should be open to the Board to grant licence for its republication. Now this part (e) of the amendment runs counter to that and says: "Provided that no such licence shall be granted unless the author has not withdrawn from circulation copies of the work." It is rather an involved way of putting a thing, but the obvious implication or rather the involved implication of this part of the amendment is that it shall be open to the author to withdraw any publication from circulation, and in that case its translation shall not be permitted. I suggest that this part (e) should be deleted to bring it in consonance with the principle already accepted by the deletion of the proviso, and I have particularly in my mind some cases which I need not refer to. It is just because the very cases are in my mind I have been waiting to speak. Otherwise I would have kept mum over it. I have in my mind certain

cases—I would not mention those cases—where certain authors or copyright holders do not publish the book because of certain malicious reasons. I would not mention those instances for obvious reasons, but then there have been such cases; it is not a mere imaginary thing. But what I suggest is that it should be absolutely open to the Board to consider the advisability or otherwise of permitting a translation being published even if the author has withdrawn a particular thing from circulation for reasons which may appear to the Board to be unreasonable, malicious and against public interest. Anyway, Sir, I would only want that we should be consistent with regard to this principle.

SHRI RAJENDRA PRATAP SINHA: I have not had any chance to speak, Sir.

MR. DEPUTY CHAIRMAN: Then let us sit beyond 5 o'clock, up to 6 o'clock even, and finish this Bill. You please be brief.

SHRI RAJENDRA PRATAP SINHA: I shall be very brief, Sir. Now, I have moved this amendment, Sir,.....

MR. DEPUTY CHAIRMAN: It is accepted by the hon. Minister.

SHRI RAJENDRA PRATAP SINHA: I have moved this amendment, Sir, to meet the various viewpoints expressed on allowing a translation and at the same time giving the authors the necessary compensation. I shall not dilate on this point. I shall only speak on the point raised by my hon. friend, Mr. Kapoor. Now, he has objected to sub-clause (e) of New Clause 31A.

MR. DEPUTY CHAIRMAN: 'Translation' does not come in the previous clause at all. It is only for republication, performance and radio-diffusion. Translation does not come under that clause at all.

SHRI JASPAT ROY KAPOOR: Translation does not come under the previous clause, but the principle is the same. The previous clause related to the publication of the book in original.

MR. DEPUTY CHAIRMAN: It is Republication, performance and radio-diffusion; translation is not covered by that clause. So the principle does not apply to this clause.

SHRI JASPAT ROY KAPOOR: I was not unmindful of this difference, Sir. Otherwise the whole proposed clause 31A would have been redundant. My point is this that so far as the principle is concerned, the withdrawal of any publication is immaterial, and that is the one principle that I am concerned with at the moment. Withdrawal of the publication was considered to be of no consequence, was absolutely immaterial so far as republication of the original book is concerned. Now I submit the same principle should apply with regard to translation also. There, although it is withdrawn, the withdrawal is of no consequence. So also the withdrawal of the original work should be of no consequence while considering the question of granting permission for the publication of the translation. You should only meet his point. I am not asking anything else.

MR. DEPUTY CHAIRMAN: That all right. Yes, Mr. Sinha. Please be brief. You need not dilate on this point.

SHRI RAJENDRA PRATAP SINHA: Well, Sir, as was very rightly pointed out by you, the House is in a position to accept sub-clause (b) of the proposed New Clause 31A because this sub-clause is quite a different clause, different from the one in clause 30. The reason why I have proposed this New Clause 31A is this. We have got to always keep in view the Berne Convention and the Universal Copyright Convention which we are members. We cannot go against them. It has probably escaped the attention of my hon. friend Mr. Kapoor, that we have amended clause 30 in order that the amendment may only affect the Indian provisions. Now is it the view of my friend that we should be debarred from translating the works of foreign authors. No; I take it it is

not his view. Now the Universal Copyright Convention says that there should be national treatment of the works, that the same treatment should be meted out to foreign authors the treatment that we mete out to our own national authors. Now that is the essence of the Universal Copyright Convention. Now if we adopt this clause as it is, I maintain that we shall be in a position to translate even the works of foreign authors, which is more important than translating the works of the Indian authors. Now, if we accept the suggestion of Mr. Kapoor, then we shall have to bring another amendment different from the one before the House and because we are signatories to the Berne Convention and the Universal Copyright Convention we have got to be guided by them in respect of giving rights and of protecting the rights of the foreign authors in this land.

SHRI JASPAT ROY KAPOOR: I am afraid I have been misunderstood. My simple proposition is that even if a book has been withdrawn from circulation it should be of no consequence while considering the question of granting permission to its translation.

MR. DEPUTY CHAIRMAN: You have spoken, Mr. Kapoor; you cannot speak again.

SHRI JASPAT ROY KAPOOR: What I am saying is that I do not want to be misquoted.

SHRI RAJENDRA PRATAP SINHA: I do not want to quote him, Sir, but the whole purpose of having this clause is to enable us to translate even the works of the foreign authors without in any way infringing the provisions of the Berne Convention or the Universal Copyright Convention.

DR. P. V. KANE: It is only "Indian work"; I do not see any "foreign-work".....

SHRI RAJENDRA PRATAP SINHA: How does the work of foreign authors.....

DR. P. V. KANE: It is here "a translation of a literary or dramatic work in India in any of the languages specified in the Eighth Schedule to the Constitution."

SHRI RAJENDRA PRATAP SINHA: Where are the words "in India" in the proposed clause 31A?

DR. P. V. KANE: Where is the word 'foreign' there?

SHRI RAJENDRA PRATAP SINHA: Sub-clause (1) of my amendment, that is of New Clause 31A, says: "Any person may apply to the Copyright Board for a licence to produce and publish a translation of a literary or dramatic work in any language."

DR. P. V. KANE: Where are the words "in India" gone? Where is the "Indian Work"?

SHRI JASPAT ROY KAPOOR: In our copy of the amendment the words "in India" are there.

SHRI RAJENDRA PRATAP SINHA: I am very sorry. I have since changed the wording. It is in the form in which I read out just now. So if we retain this clause then we have the very great benefit of translating the work of the foreign authors as well, and if we delete the clause as suggested by him, then we lose that right, because under those Conventions which I have referred to, if a work is withdrawn from circulation—it is the moral right of the authors to withdraw their works—then you cannot translate it. Now it is more important that we should be in a position to translate the books of the foreign authors than those of our own authors and therefore we should retain this clause so that we are in a position to translate their work as well.

DR. P. V. KANE: Are you omitting the words 'in India.....'and so on here?

SHRI RAJENDRA PRATAP SINHA: Yes.

DR. K. L. SHRIMALI: Sir, I think I have already drawn the attention of the House to the fact that this clause is in accordance with the Universal Copyright Convention to which India is already a signatory and we cannot go contrary to that. I think my friend Mr. Kapoor is mixing up this clause with the previous clause which we have already passed. The previous clause refers to refuse republication of any work. Here it is only a question of withdrawing from circulation copies of the work and there is no reference to republishing in this case. So I do not think this clause is contrary to what we have already passed.

SHRI JASPAT ROY KAPOOR: It is a question of granting licence for publishing the translating or not.....

MR. DEPUTY CHAIRMAN: Mr. Kapoor, I am putting the amendment to the House.

SHRI JASPAT ROY KAPOOR: Sir, if you will permit, I would only like to point out to the hon. Minister that we have not been properly understood. My simple question to which I would like to have a simple answer is whether a book which has been withdrawn by the author should be permitted to be translated and the translation thereof published or not. You say that if it is withdrawn translation should be permitted then it is all right and it can remain as it is. But if you think that if the book is withdrawn its translation may be permitted to be published, then part (e) should go. The simple proposition, and the Minister has to make up his mind.

SHRI KISHEN CHAND: May I ask one question? According to clause 30 you permit even a book which has been withdrawn by the author to be published. You say that a licence can be granted to publish that book. So you permit the publication.

book even though it is withdrawn but you will not permit the translation of a book which has been withdrawn. According to clause 30 the Copyright Board can give permission to print such a book but according to clause 31A the Copyright Board cannot give permission to translate that book. That means you can publish the original book but not translate it.

SHRI RAJENDRA PRATAP SINHA: The point on which we should make up our mind is whether we want the translation of the foreign works or not and.....

MR. DEPUTY CHAIRMAN: Order, order. Mr. Sinha, you are harping on one point and their point is entirely different. Dr. Shrimali will reply.

DR. K. L. SHRIMALI: Sir, I cannot accept the suggestion made by Mr. Kapoor. Here the author has not withdrawn from circulation copies of his work.

SHRI JASPAT ROY KAPOOR: That is so. Part (e) says: 'the author has not withdrawn circulation of copies of the work'. The words 'unless' and 'not' cancel each other which means that if a book has been withdrawn from circulation, then its translation shall not be permitted. So the position will be this. The original book though withdrawn will be permitted to be published under clause 30 but under this clause as proposed its translation will not be permitted. The original will be in circulation but its translation will be refused. Obviously it is a very anomalous position. If necessary, this may be held over for some time so that it can be examined.

MR. DEPUTY CHAIRMAN: He has perfectly understood you, Mr. Kapoor. Please hear his reply now.

DR. K. L. SHRIMALI: I only wanted to tell my friend Mr. Kapoor that there is a difference between the pro-

vision that has been made in this clause the provision that we have made in the previous clause that has been passed. The previous clause refers to cases where republication is involved. Here it is only a case of withdrawing from circulation copies of the work. My only submission is that there is no contradiction between the two as has been suggested by my friend Mr. Kapoor, and no difficulties would arise in the application of this clause.

This is a provision which is also made in the Universal Copyright Convention to which we have already agreed.

MR. DEPUTY CHAIRMAN I think their doubt is this. If any person makes an application to the Copyright Board, in spite of the fact that the author has withdrawn his work, if it is in public interest the Copyright Board can give permission to republish, enact or televise. That is, under clause 30 you allow republication but under clause 31, if the author has withdrawn from circulation a particular work, then nobody can be allowed to translate it. One is contradicting the other. That is their doubt.

DR. K. L. SHRIMALI: Sir, I do not want to press this. I am quite prepared for the deletion of this. My reason why I wanted it to be retained was that this is in accordance with the Universal Copyright Convention.

SHRI JASPAT ROY KAPOOR: We want not the deletion of the whole clause but only Part (e) thereof.

MR. DEPUTY CHAIRMAN: So I will put this.....

SHRI JASPAT ROY KAPOOR: Sir, may I request you to put part (e) of the proviso separately because I would

[Shri Jaspat Roy Kapoor.]
like that to be deleted and I think the hon. Minister agrees to the deletion of Part (e):

Mr. DEPUTY CHAIRMAN: No, no. He is not willing.

SHRI JASPAT ROY KAPOOR: If he is not willing, then I would submit.....

Mr. DEPUTY CHAIRMAN: You may vote against the clause.

The question is:

14 "That at page 16, after line 10, the following new clause 31A be inserted, namely:—

31A. (1) Any person may apply to the Copyright Board for a licence to produce and publish a translation of a literary or dramatic work in any language.

(2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation of the work.

(3) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar of Copyrights such fee as may be prescribed.

(4) Where an application is made to the Copyright Board under this section, it may, after holding such inquiry as may be prescribed, grant to the applicant a licence, not being an exclusive licence, to produce and publish a translation of the work in the language mentioned in the application, on condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the transla-

tion of the work sold to the public, calculated at such rate as the Copyright Board may, in the circumstances of each case, determine in the prescribed manner:

Provided that no such licence shall be granted, unless—

- (a) a translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work of any person authorised by him, within seven years of the first publication of the work, or if a translation has been so published, it has been out of print;
- (b) the applicant has proved to the satisfaction of the Copyright Board that he had requested and had been denied authorisation by the owner of the copyright to produce and publish such translation or that he was unable to find the owner of the copyright;
- (c) where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for such authorisation to the publisher whose name appears from the work, not less than two months before the application for the licence;
- (d) the Copyright Board is satisfied that the applicant is competent to produce and publish a correct translation of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this section;
- (e) the author has not withdrawn from circulation copies of the work: and

(f) an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work' ”

The motion was adopted.

New Clause 31A was added to the Bill.

DR. R. B. GOUR (Andhra Pradesh): I am sorry to have to interfere. The point is, there is no water here in the House. When Members want to go and take water.....

MR. DEPUTY CHAIRMAN: You will have it. The water supply in the whole building has failed.

We will now take up clause 32.

Clauses 32 to 36 were added to the Bill.

Clause 37—Other provisions of this Act to apply to broadcast reproduction rights

DR. K. L. SHRIMALI: Sir, I move:

17. “That at page 18, lines 26-27, for the words ‘Section 18, section 29 and section 54 (which relate to assignments and licences and civil remedies for infringement) shall’ the words ‘Sections 18, 19, 29, 52, 54, 57, 63, 64 and 65 shall’ be substituted.”

MR. DEPUTY CHAIRMAN: The clause and the amendment are before the House.

DR. K. L. SHRIMALI: Sir, there is nothing special here. Some more sections have also to be applied and they are 19, 52, 57, 63, 64 and 65. That is all.

MR. DEPUTY CHAIRMAN: The question is:

17. “That at page 18, lines 26-27, for the words ‘Section 18, section 29 and section 54 (which relate to assignments and licences and civil remedies for infringement) shall’ the words ‘Sections 18, 19, 29, 52, 54, 57, 63, 64 and 65 shall’ be substituted.

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

“That clause 37, as amended, stand part of the Bill.”

The motion was adopted.

Clause 37, as amended, was added to the Bill.

Clause 38—other rights not affected

SHRI RAJENDRA PRATAP SINHA: Sir, I move:

18. “That a page 19, line 4, after the word ‘dramatic’ the word ‘artistic’ be inserted.”

MR. DEPUTY CHAIRMAN: The clause and the amendment are before the House.

SHRI RAJENDRA PRATAP SINHA: This relates to rights of broadcasting authorities and clause 38 on page 19 says that the other rights will not be affected.

[THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA) in the Chair.]

That clause says: “For the removal of doubts, it is hereby declared that the broadcast reproduction right conferred upon a broadcasting authority under this Chapter shall not affect the copyright (a) in any literary dramatic or musical work which is broadcast by that authority.....”

I would merely say that we can add here also the ‘artistic’ work, because we have provided for dramatic and musical work. Even artistic work should be protected, because we should not forget that there will be greater and greater use of television in which case the word ‘artistic’ will have a particular significance and importance and we should not deprive the artistes of the just and right compensation which they could get from the broadcasting authorities. Of course, so far as the radio is concerned, the word has

[Shri Jaspat Roy Kapoor.]
no significance. But I am sure that we are not legislating for one or two years but for a number of years to come. It is only once in half a century that the Copyright Bill is amended and by that time television, I am sure, will have developed in this country, when this word 'artistic' will have a great value.

DR. K. L. SHRIMALI: At present there is no television in India and I do not think it is necessary to make this provision. The Bill will be suitably amended when we have television.

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): Do you want to press your amendment No. 18?

SHRI RAJENDRA PRATAP SINHA: I do not want to press it, if the hon. Minister does not accept it.

*Amendment No. 18 was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): The Question is:

"That clause 38 stand part of the Bill."

The motion was adopted.

Clause 38 was added to the Bill.

Clauses 39 to 48 were added to the Bill.

Clause 49—Rectification of register by courts

DR. K. L. SHRIMALI: I am not moving amendment No. 19.

"Madam, I move:

47. "That—

(i) at page 22, line 27, for the word '(1) The High Court' the words 'The Copyright Board' be substituted; and

(ii) at pages 22 and 23, lines 35—36 and 1—2, respectively, be deleted."

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): The clause and the amendment are before the House.

DR. K. L. SHRIMALI: The purport of this amendment is to substitute the words "Copyright Board" for the words "High Court" in clause 49 (1). The intention of this clause is that the party should not be required to go to the High Court to obtain rectification of the Register of Copyrights, but may approach the Copyright Board. Of course, an appeal will lie to the High Court against the Board under clause 71(2). In view of the amendment to clause 49(1) and 49(2) amendment No. 19 would be unnecessary and would have to be omitted.

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): The question is:

47. "That—

(i) at page 22, line 27, for the words '(1) The High Court' the words 'The Copyright Board' be substituted; and

(ii) at pages 22 and 23, lines 35—36 and 1—2, respectively, be deleted."

The motion was adopted.

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): The Question is:

"That clause 49, as amended, stand part of the Bill."

The motion was adopted.

Clause 49, as amended, was added to the Bill.

Clause 50—When copyright infringed

DR. K. L. SHRIMALI: Sir, I move:

20. "That at page 23, line 15, after the words 'copyright in the work' the words 'unless he was not aware and had no reasonable ground for believing that such performance would be an infringement of copyright' be inserted."

21. "That at page 23, line 24, for the words 'private or domestic' the words 'private and domestic' be substituted."

SHRI JASPAT ROY KAPOOR: Sir, I move:

41. "That at page 23, line 29, after the word 'film' the words 'or the production, without the permission of such authority as may be prescribed, of "Key", "Guide" or "Notes" on works approved for any examination recognised by a State Government, the Central Government or any university" be inserted."

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): The clause and the amendments are before the House.

DR. K. L. SHRIMALI: The clause as originally drafted provided that the person permitting for profit any place to be used for the performance of the work in public would not be infringing copyright if he had no reason to believe or he had no knowledge that such party had infringed the copyright. Through an oversight this mistake was made therefore this correction has to be made. This amendment seeks to rectify that mistake.

SHRI JASPAT ROY KAPOOR: Madam, the amendment that stands in my name is No. 41, given on page 3, of List No. 2. Now, this amendment relates to the 'Explanation' of clause 50.

[MR. DEPUTY CHAIRMAN in the Chair.]

Clause 50 runs thus:—

"Copyright in a work shall be deemed to be infringed.....".

I leave the other portions of it and come straight to 'Explanation'. It says:—

"For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematograph film.....",

—and then I propose to add these words:—

"or the production, without the permission of such authority as may be prescribed, of 'Key', 'Guide' or 'Notes' on works approved for any examination recognised by a State Government, the Central Government or any university".

—"shall be deemed to be an 'infringing copy'."

At the outset, I might submit Madam Chairman that my amendment has certain limitations and the limitation is that it relates only to textbooks—and only to keys, guides or notes of textbooks which have been prescribed for any recognised examination either by the State Government or the Central Government or any university. The object, Madam, is two-fold.

HON. MEMBERS: There is no 'Madam'. Mr. Deputy Chairman is in the Chair.

SHRI JASPAT ROY KAPOOR: I am sorry, Sir. But then 'he' includes 'she'. Reciprocally 'she' might as well include 'he', and probably more appropriately. Sir, the object is two-fold. Firstly, it is to protect the right of the textbook writers; and, secondly, it is to do away with the evil which is becoming more prevalent, that is, students rather than purchasing and reading the original textbooks study the keys, guides or notes, ignoring the original textbooks altogether. So, if keys, guides or notes are to be published at all, they should be published with the previous authority, not of the authors themselves, but of some authority prescribed by rules in this behalf by the Government itself. So, there will be no question of the authors taking undue advantage of this provision. The Registrar of the University or the Secretary of the Intermediate Board or some such authority could be prescribed whose permission should be obtained before any key, guide or notes could be published. This authority will of course look into the proposed key,

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guide or notes and see whether they are of use to the students. Only a few notes here and there are added, and it is given the designation of key, and the right is thus infringed.

In this connection I would draw your attention to the memorandum which was submitted to the Joint Select Committee by the All-India Publishers Association, Allahabad—pages 22 to 25. I would only read a few lines. This is what they have suggested:

"Clauses of Chapter XI relating to the infringement of copyright should include a provision under which permission of the holder of copyright may be required when "keys", "notes" or "guides" may be sought to be published of a particular work. Such a provision while safeguarding the interests of the copyright-holders will discourage the publication of cheap help books which are vitiating the present-day school and college education in our country." They have suggested that permission should be obtained from the author or the publisher. I would rather suggest that permission should be sought not from the author or the publisher but from the prescribed authority. In this connection the representatives of the authors of this memorandum were examined at certain length in the Select Committee, and their evidence is at page 55 of the copy which has been given to us. For want of time I do not propose to go through the whole of it, but they were very emphatic, and that for very weighty reasons, that some such provision must be embodied in order to safeguard the interests of the copyright-holders and also to protect the interests of the students themselves. This widely prevalent abuse must be put a stop to, and I hope that the great educationist, Dr. Shrimali, will seriously consider this question.

SHRI RAJENDRA PRATAP SINHA:
Sir,.....

MR. DEPUTY CHAIRMAN: We have to finish this Bill.

SHRI RAJENDRA PRATAP SINHA:
We are sitting till 6 o'clock. I would like to say a few words.

MR. DEPUTY CHAIRMAN: All right. One or two sentences.

SHRI RAJENDRA PRATAP SINHA:
I am rather surprised, Sir, that such an amendment has come from such an eminent lawyer as Mr. Kapoor.

MR. DEPUTY CHAIRMAN: Probably some of the publishers must be his clients.

SHRI RAJENDRA PRATAP SINHA:
I do not know that, Sir. But he is always very technical and correct and he knows the procedure.

SHRI JASPAT ROY KAPOOR: Not only the publishers came, but the interests of the students also haunt me.

SHRI RAJENDRA PRATAP SINHA:
Firstly, we do not know what these words signify—"key", "guide" and "notes". We cannot just import.....

MR. DEPUTY CHAIRMAN: When you were a student, probably you had no "key".

SHRI RAJENDRA PRATAP SINHA:
I would like to say that these words must be defined before they can be imported into this important legislation. This is my first objection.

My second objection is that this is not the appropriate place where such a restriction could be placed. This is a copyright legislation dealing with the rights of authors, publishers and others. I am possibly in agreement, in sympathy with what he says. My whole difficulty is this that this is not the right place to bring these things. The best thing for him is to go and move the Registrars in Universities or authorities whoever they may be. This is not the right place. In spite of all my sympathies for him I cannot be a party to allow this amendment to creep into this copyright law.

DR. P. V. KANE: Sir, the original author is nowhere in the picture. Some third authority is brought in. This is one thing. The original author himself may not like these keys and other things. He is not to be consulted in this connection but some authority appointed by the Government. That, I suppose, is an infringement not of the copyright but the author's position as an author.

SHRI JASPAT ROY KAPOOR: Have the author then. I do not mind.

DR. P. V. KANE: Does it apply to keys that have been published? This applies to the future. Every law applies to the future. It is not retrospective. Suppose there is a book like Kenilworth. Already a key exists. It was printed fifty years back. Whether this law applies to such a key or not is not clear.

DR. K. L. SHRIMALI: Sir, however sympathetic I may be with the sentiments expressed by my friend Mr. Kapoor, I do not think we can make any provision in this Bill. If these keys and guides reproduce substantially the parts of the original work, naturally there will be an infringement. If they do not do that, then I do not think we can call it an infringement. Some people had made representations to the Joint Select Committee, they were fully considered, and it was not possible to make any provision in this Bill. I am afraid I cannot accept that amendment.

MR. DEPUTY CHAIRMAN: The question is:

20. "That at page 23, line 15, after the words 'copyright in the work' the words 'unless he was not aware and had no reasonable ground for believing that such performance would be an infringement of copyright' be inserted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

21. "That at page 23, line 24, for the words 'private or domestic' the words 'private and domestic' be substituted."

The motion was adopted.

SHRI JASPAT ROY KAPOOR: Sir, I would prefer to content myself with the sympathy expressed and I would not press my amendment. I beg leave to withdraw my amendment.

*Amendment No. 41 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 50, as amended, stand part of the Bill."

The motion was adopted.

Clause 50, as amended, was added to the Bill.

Clause 51—Certain acts not to be infringement of copyright.

DR. K. L. SHRIMALI: Sir, I move:

22. "That at page 24, line 1, for the words 'or musical work' the words 'musical or artistic work' be substituted."

23. "That at page 25, after line 24, the following be inserted, namely:—

'(jj) the causing of a recording embodied in a record to be heard in public by utilising the record,—

(i) at any premises where persons reside, as part of the amenities provided exclusively or mainly for residents therein, or

(ii) as part of the activities of a club, society or other organisation which is not established or conducted for profit;."

*For text of amendment vide cols.281-282 *supra*.

[Dr. K. L. Shrimali.]

24. "That at page 25, lines 25-26, for the words 'a literary, dramatic or musical work' the words 'an Indian work' be substituted."

SHRI RAJENDRA PRATAP SINHA: Sir, I move:

25. "That at page 25, line 28, the words 'or charitable' be deleted.

26. "That at page 26, lines 13 to 29 be deleted."

DR. K. L. SHRIMALI: Sir, I move:

27. "That at page 26, lines 22 to 25, the words 'means a literary, dramatic or musical work published in India, and includes a work published outside India if the author of the work is a citizen of India or is domiciled in India, but' be deleted."

28. "That at page 27, for lines 27 to 29, the following be substituted, namely:—

'(i) any artistic work permanently situate in a public place or any premises to which the public has access; or'."

29. "That at page 28, line 12, after the words 'and clauses' the brackets and letter '(d)' be inserted."

SHRIMATI SHARDA BHARGAVA: Sir, I move:

44. "That at page 26, after line 29, the following be inserted, namely:—

'(pp) the production, reproduction, performance or publication of an artistic work, where it constitutes a part of an Indian work, in connection with a translation of such Indian work into any Indian language;

Explanation.—In this clause, the expression 'Indian work' shall have the same meaning as in clause (p)."

DR. P. V. KANE: Sir, I move:

46. "That at page 26, line 15, for the words 'ten years' the words 'fifty years' be substituted."

SHRI JASPAT ROY KAPOOR: Sir, I move:

48. "That at page 26, line 18, the word 'reproduced' be deleted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are before the House.

SHRI RAJENDRA PRATAP SINHA: Sir, I have moved my amendment No. 25 in respect of clause 51 (k) on page 25. You will find that we have given certain exemptions with regard to the performance of literary, dramatic and musical work without in any way infringing the copyright. In this is included "if the performance is given to a non-paying audience." Then it will not be an infringement of the copyright. It is quite right and should be given. Or if the performance is given for the benefit of a religious institution, this is also quite right and this should be provided in the law. It also says that, if the performance is given for a charitable institution, then also it should not infringe the copyright law. Here is my objection. I would like to drop these words "or charitable" because I have found that there are several instances and cases and there have been various copyright cases on this issue, on this word 'charitable' which was in existence in the copyright laws of other countries. Now, what happens is that anybody can have a club or institution and he may perform any music or drama; collect money not by the sale of tickets for admission to such drama or music performance, but by other ways, by charging as a restaurant, that is, making money by the sale of food. They will give a portion of their total profits in charity and thus escape the provisions of the Copyright law and they may be paying fancy, handsome and exorbitant salaries to their staff or their manager or director. This is how they compensate the dividends that they expect from running such institutions. Such cases are to be found and therefore, if we drop the words "or charitable", nothing will be lost; we will, at the same time, be curbing

the abusive use of this provision.

MR. DEPUTY CHAIRMAN (To Dr. K. L. Shrimali): Have you got to say anything about your amendment?

DR. K. L. SHRIMALI: Sir, I would not like to press amendment No. 27.

SHRI RAJENDRA PRATAP SINHA: Does he not want to press it?

PROF. R. D. SINHA DINKAR: What about amendment No. 26 of Mr. Sinha?

SHRI RAJENDRA PRATAP SINHA: I am very grateful to Prof. Dinkar. I have already moved this. This is very important in view of the fact that we have accepted the important amendment (New Clause 31A) which deals with translation rights. Now, as a matter of fact, automatically the hon. Minister should accept it; otherwise these two provisions are contradictory to each other.

DR. K. L. SHRIMALI: Sir, I am accepting amendments Nos. 25 and 26.

SHRI RAJENDRA PRATAP SINHA: Then it is all right.

MR. DEPUTY CHAIRMAN: You are accepting? Then it is all right.

SHRIMATI SHARDA BHARGAVA: Sir, my amendment reads:

"That at page 26, after line 29, the following be inserted, namely—

(pp) the production, reproduction, performance or publication of an artistic work, where it constitutes a part of an Indian work, in connection with a translation of such Indian work into any Indian language;

Explanation.— In this clause, the expression 'Indian work' shall have the same meaning as in clause (p)'"

पेज २६ पर धार ५१ की उपधारा (पी) में लिखा हुआ है कि :

"(p) the production, reproduction, performance or publication of a translation in any Indian language of an Indian work after the expiry of a period of ten years from the date of the first publication of the work."

इंडियन वर्क की परिभाषा इस प्रकार दी हुई है :

"the expression 'Indian work' means a literary, dramatic or musical work published in India...."

MR. DEPUTY CHAIRMAN: He is accepting deletion of this.

SHRIMATI SHARDA BHARGAVA: I am adding something.

यहां पर, जो परिभाषा दी हुई है उससे कोई भी कृति पूरी नहीं होती। अर्थात् कोई भी पुस्तक पूरी नहीं होती। हर एक अच्छी पुस्तक में किसी न किसी तरह का आर्टिस्टिक वर्क जरूर होता है। बच्चों की पुस्तकों में डाइग्रामस, चार्ट्स और मैप्स जरूर होते हैं और इनको हमने "आर्टिस्टिक वर्क" में रखा है। अब हम एक तरफ ट्रांसलेशन का राइट १० वर्ष के बाद हर एक को दे देते हैं दूसरी तरफ आर्टिस्टिक वर्क का भी (copyright) रख देते हैं। इसके माने यह है कि कोई भी किताब का जिसमें आर्टिस्टिक वर्क भी सम्मिलित है ट्रांसलेशन नहीं हो सकेगा और ट्रांसलेशन होगा तो लिटिगेशन होगा और मुझे मालूम है कुछ जगह लिटिगेशन हो रहे हैं। यदि चार्ट्स और डाइग्राम को ट्रांसलेशन के वक्त (reproduce) किया जाता था तो यह प्रश्न आता है कि जो मैटर है उसमें लिटरेचर और ड्रामा का ट्रांसलेशन तो कर सकते थे लेकिन चार्ट जो लिटरेचर में नहीं है और आर्टिस्टिक वर्क में आते हैं उन पर कापीराइट है अतः वह ट्रांसलेशन के समय (reproduce) नहीं किया जा सकते हैं। पर यदि वही चार्ट्स आदि ट्रांस-

[Shrimati Sharda Bhargava.]

लेशन के समय बदल दिये जाते हैं तो वह सही ट्रांसलेशन नहीं माना जाता अर्थात् दूसरे चार्ट रख देने से कहते हैं कि इसका मतलब खराब हो गया। लेकिन मैंने जो संशोधन दिया है वह सिर्फ इस तरह के इंडियन वर्क में "आर्टिस्टिक वर्क" एड करने के लिये दिया है। मेरा एमेंडमेंट स्वीकार कर लेने से मेरा खयाल यह है कि ट्रांसलेशन के समय बीच में जो बाधा आती है वे दूर हो जायेंगी और इससे हम लोगों को ट्रांसलेशन का पूरा फायदा मिल सकेगा और बच्चों की किताबों में ट्रांसलेशन में डाइग्राम के साथ, चार्ट के (reproduce) करने में आसानी होगी। यह बड़ा इन्नोवेट एमेंडमेंट है और आशा है मंत्री महोदय इसको स्वीकार कर लेंगे और लिटिगेशन द्वारा नेशनल वेस्ट को दूर करेंगे। एक सीधा सा क्लेरिफिकेशन हो जायगा और धारा बिलकुल साफ हो जायगी। इसलिये मैं प्रार्थना करूंगी कि यह जो छोटा सा एमेंडमेंट है और बहुत जरूरी है इसको मंत्री महोदय स्वीकार करें।

DR. K. L. SHRIMALI: Does it survive after amendment No. 14 is accepted and sub-clause (p) of clause 51 omitted in consequence?

SHRIMATI SHARDA BHARGAVA: Yes, that does, because the definition of an Indian work given in another chapter remains the same. So only when you add 'artistic' to the 'Indian work', it would be clear.

SHRI JASPAT ROY KAPOOR: Sir, finding the hon. Minister to be in an accepting mood this time, I venture.....

DR. K. L. SHRIMALI: I am not in an accepting mood.

SHRI JASPAT ROY KAPOOR: I thought you have already accepted amendments Nos. 25 and 26.

DR. K. L. SHRIMALI: That is true; I have accepted amendments Nos. 25 and 26. About No. 44, I am not sure that this amendment will survive after amendment No. 14 is accepted.

MR. DEPUTY CHAIRMAN: Let them all finish their speeches; you can reply afterwards collectively.

SHRI JASPAT ROY KAPOOR: I only wanted that the hon. Minister might proceed on the same good lines by accepting my amendment. What I am suggesting is that at page 26, line 18, the word 'reproduced' be deleted and the proviso should run thus:

"Provided that no translation of such work in that language has been produced....." the word 'reproduced' now being deleted" performed or published....."

and so on. Not only is this word 'reproduced' here redundant, but is likely to lead to considerable mischief. What does the retention of this word 'reproduced' here lead to? It will mean that even though a translation has been published by the author or the copyright-holder, if it has not been, in addition to being produced, reproduced during the ten years, then anybody else can publish another translation thereof.

DR. K. L. SHRIMALI: Which is that amendment, Sir?

SHRI JASPAT ROY KAPOOR: My amendment is No. 48. It is only to set things right; otherwise, it gives us an entirely different meaning than what is previously intended. It will give a new right altogether to a person to publish a translation even though the original translation may have been published by the author or the copyright-holder, but if it has not been reproduced.....

MR. DEPUTY CHAIRMAN: Mr. Kapoor, the line to which you are moving an amendment is going to be deleted. The hon. Minister is accept-

ing amendment No. 26. So, all these lines will be deleted. You need not labour. Your amendment is to line 18 on page 26. Is it not?

SHRI JASPAT ROY KAPOOR: Sir, he is accepting something more than what I wanted. So, everything goes off. Splendid, Sir.

DR. P. V. KANE: Sir, I do not press my amendment because he has accepted amendment No. 26.

MR. DEPUTY CHAIRMAN: You do not press the amendment?

DR. P. V. KANE: No, Sir, I do not.

DR. K. L. SHRIMALI: I am accepting amendments Nos. 25 and 26. I am not pressing amendments Nos. 24 and 27.

SHRIMATI SHARDA BHARGAVA: Sir, he has not replied to my amendment No. 44.

MR. DEPUTY CHAIRMAN: What about No. 22? Only No. 24 you are not pressing.

DR. K. L. SHRIMALI: I am not pressing Nos. 24 and 27. I am accepting Nos. 25 and 26.

5 P.M.

आनरेबल मेम्बर ने जो मेरे पीछे बैठी हुई हैं—मिसेज शारदा भार्गव—तर्जुमा करते समय कला या चित्र के कापीराइट का प्रश्न उठाया है। मेरा सिर्फ निवेदन यह है कि जब तर्जुमे का अधिकार किसी को मिलता है तो उसके साथ उन चित्रों का भी अधिकार होता है। जहाँ तक मुझे मालूम है, इस तरह का केस कोई हुआ नहीं। आप कहती हैं, हुआ है लेकिन मुझे मालूम नहीं है। मेरा खयाल है कि जो तर्जुमे का हक किसी लेखक को मिलता है वह पूरी पुस्तक के लिये मिलता है, किसी चित्र या नकशे के लिये अलग नहीं मिलता है। मैं यही निवेदन करना चाहता हूँ। इसलिये उनका एमेंडमेंट मुझे स्वीकार नहीं है।

SHRIMATI SHARDA BHARGAVA: But, Sir, I may inform the hon. Minister that there is one case in which.....

MR. DEPUTY CHAIRMAN: There cannot be arguments and counter arguments now.

SHRIMATI SHARDA BHARGAVA: Sir, he says that there is no case like that. But I am saying that there is one such case where the Sessions Court has given the decision that only the matter can be translated and not this artistic work. The translating party has appealed to the High Court and this is a fact. So, there is such a case there.

DR. K. L. SHRIMALI: Sir, before I accept the amendment, I must have the decision of the High Court. In the absence of any decision I am afraid I cannot accept this amendment.

SHRI M. SATYANARAYANA: On a point of information, Sir. The hon. Minister seems to have accepted the amendment moved by my friend that the word 'charitable' be deleted, and he has given certain reasons. I know that the charitable institutions are governed under the Charitable Institutions Act. But the same arguments will be applicable to the word 'religious' also. Therefore, will it not be better that we should remove both the words 'religious' as well as 'charitable'?

DR. K. L. SHRIMALI: There is no amendment.

MR. DEPUTY CHAIRMAN: So, you are agreeable to delete the word 'charitable'?

DR. K. L. SHRIMALI: Yes, Sir.

SHRIMATI SHARDA BHARGAVA: Only one sentence. If the hon. Minister is so confident about the decision of the High Court, I would request him to give me an assurance that he will amend the law with retrospective effect, and then I shall withdraw my amendment.

MR. DEPUTY CHAIRMAN: How can he give that assurance? It is a hypothetical question. Let the High Court decision come first. He will certainly examine it.

SHRIMATI SHARDA BHARGAVA: Sir, only one sentence.

MR. DEPUTY CHAIRMAN: Order, order. I am putting the amendments to the House now.

The question is:

22. "That at page 24, line 1, for the words 'or musical work' the words 'musical or artistic work' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

23. "That at page 25, after line 24, the following be inserted, namely:—

"(jj) the causing of a recording embodied in a record to be heard in public by utilising the record,—

(i) at any premises where persons reside, as part of the amenities provided exclusively or mainly for residents therein, or

(ii) as part of the activities of a club, society or other organisation which is not established or conducted for profit;."

The motion was adopted.

DR. K. L. SHRIMALI: Sir, I beg leave to withdraw my amendment.

*Amendment No. 24 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

25. "That at page 25 line 28, the words 'or charitable' be deleted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

No. 26. "That at page 28, lines 13 to 29 be deleted."

The motion was adopted.

DR. K. L. SHRIMALI: Sir, I beg leave to withdraw my amendment.

*Amendment No. 27 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

28. "That at page 27, for lines 27 to 29, the following be substituted, namely:

'(i) any artistic work permanently situate in a public place or any premises to which the public has access: or'."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

29. "That at page 28, line 12, after the words 'and clauses' the brackets and letter '(d)' be inserted."

The motion was adopted.

DR. P. V. KANE: Sir, I beg leave to withdraw my amendment.

*Amendment No. 46 was, by leave, withdrawn.

SHRIMATI SHARDA BHARGAVA: Sir, I hope that the Minister will take some steps after the decision of the High Court. Therefore I beg leave to withdraw my amendment.

*Amendment No. 44 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: Mr. Kapoor, your *amendment No. 48 falls through.

The question is:

"That clause 51, as amended stand part of the Bill."

The motion was adopted.

Clause 51, as amended, was added to the Bill.

Clauses 52 and 53 were added to the Bill.

Clause 54—Civil remedies for infringement of copyright.

DR. K. L. SHRIMALI: Sir, I move:

30. "That at page 30, line 3, for the word 'proceedings' the word 'proceeding' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are now before the House.

DR. K. L. SHRIMALI: Sir, this is only a formal amendment correcting a printing error.

MR. DEPUTY CHAIRMAN: The question is:

30. "That at page 30, line 3, for the word 'proceedings' the word 'proceeding' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 54, as amended, stand part of the Bill."

The motion was adopted.

Clause 54, as amended, was added to the Bill.

Clauses 55 to 57 were added to the Bill.

Clause 58—Restriction on remedies in the case of works of architecture

DR. K. L. SHRIMALI: Sir I move:

31. "That at page 31, line 9, for the word 'order' the words 'to order' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are now before the House.

DR. K. L. SHRIMALI: Sir, this is a formal amendment correcting a printing error.

MR. DEPUTY CHAIRMAN: The question is:

31. "That at page 31, line 9, for the words 'order' the words 'to order' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 58, as amended, stand part of the Bill."

The motion was adopted.

Clause 58, as amended, was added to the Bill.

Clauses 59 to 78 were added to the Bill.

Clause 1—Short title, extent and commencement.

DR. K. L. SHRIMALI: Sir, I move:

2. "That at page 1 line 5, for the figure '1956' the figure '1957' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are now before the House.

DR. K. L. SHRIMALI: Sir, this is also a formal amendment.

MR. DEPUTY CHAIRMAN: The question is:

2. "That at page 1, line 5, for the figure '1956', the figure '1957', be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Enacting Formula

DR. K. L. SHRIMALI: Sir, I move:

1. "That at page 1, line 1, for the word 'Seventh' the word 'Eighth' be substituted."

MR. DEPUTY CHAIRMAN: The Enacting Formula and the amendment are now before the House.

DR. K. L. SHRIMALI: Sir, this is also a formal amendment.

MR. DEPUTY CHAIRMAN: The question is:

1. "That at page 1, line 1, for the word 'Seventh' the word 'Eighth' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

DR. K. L. SHRIMALI: Sir, I move:

"That the Bill, as amended, be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill, as amended, be passed."

DR. K. L. SHRIMALI: There is a slight amendment. Sir, I move:

"That at page 7,—

(i) in line 13, after the word 'shall' the word 'ordinarily' be inserted;

(ii) in line 14, the word 'ordinarily' be deleted."

MR. DEPUTY CHAIRMAN: In clause 12, the word "ordinarily" should have been included after "shall", but it has been included after "Act". This amendment is only putting it in the proper place. It is formal amendment.

SHRI JASPAT ROY KAPOOR: A little shunting.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 7,—

(i) in line 13, after the word 'shall' the word 'ordinarily' be inserted;

(ii) in line 14, the word 'ordinarily' be deleted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The motion that the Bill, as amended, be passed is now before the House.

SHRI RAJENDRA PRATAP SINHA: Mr. Deputy Chairman, ever since the dawn of civilisation the rulers of society of all ages and of all lands have recognised the special privileges, honour and economic protection that should be given to authors, artists, thinkers and philosophers and they had taken care to provide these. The forms of the privileges and protection may have changed but the essence has remained during the course of history. These privileges and protection which were afforded to men of letters were not for their own benefit but for sustaining human civilisation itself. It is good that this august House has today largely accepted the recommendations of the Joint Committee; not only that, it has improved upon the provisions in order to give further protection and privileges to men of letters. We find that even in ancient India the Princely order, the old rulers of this country, gave special privileges, gave special gifts, to men of letters, philosophers and thinkers so that they could carry on their work in affluence so to say. Such is the case today in Communist countries. Our friends have already told us that there the authors as a class are a privileged class and that they enjoy very many facilities and concessions which give them great economic strength which the other classes of people are not

entitled to. Therefore, it is right that we have given the maximum protection not only to our own men of letters and authors but to the authors of the whole world, because these provisions have been based upon different International Conventions. If we had failed to recognise and to afford economic protection to our authors or the authors of the world, we would have done that not to the peril of the authors but to the peril of human civilisation itself. If the human being is denied the fruits of the mind, then his spiritual and moral fabric will collapse, and humanity will slip into the positions of biological animals. Sir, there is an interesting sentence in the International Convention for the protection of cultural property in the event of armed conflict. I am tempted to quote it. It says:

"Damage to cultural property results in the spiritual impoverishment for the whole of mankind."

One could hardly cause greater damage to intellectual property than by ignoring or vitiating the copyright law. I am very proud to say that this House has taken the copyright law in its proper perspective and has passed this law in a shape and form which, I am sure, will be a guide for various other countries which are in the process of evolving their copyright law.

Before I resume my seat, I would also like to offer my grateful thanks to the hon. Minister for taking a very liberal view of things and for always looking upon this law as a law which is primarily meant to give protection to men of letters and at the same time without jeopardising the interests of society. I am very grateful to him for accepting some of my amendments which will go a long way to help and protect the authors of this country and of other countries and at the same time enrich the

various languages in this country.

I offer my congratulations to him for having completed this task of passing this Bill in this House and I wish him every success in the other House.

SHRI M. SATYANARAYANA: Mr. Deputy Chairman, I heartily congratulate the hon. Minister in charge of this Bill who has successfully piloted this Bill and who has given a good assurance as well as protection to those authors who have been raising for a long time a great cry that they are being exploited by the publishers and that the exploitations must stop and further that they should be given statutory protection. This is long overdue. We have fulfilled a very great need and there has been an endless dispute during the last two or three decades between the authors and the publishers. The authors have always been found to be in a helpless position and they have been cheated often by the publishers. The publishers, according to the popular opinion are supposed to be the worst type of criminals who have always found their easy victims as the authors are helpless; they are unable to print their books or publish them and sell them. There has been more or less a kind of fight between the producer and the distributor. The producer, in any line, is a hard working man and when he is not able to get sufficient protection, it is common that he sells away his product at a very cheap price. Now, the producer in the form of an author can dictate and ask for the protection of the Government in case he is cheated. The producer and the distributor, both of them, have been treated very justly and they squarely within the ambit of the law and we have seen that nobody gets cheated at the hands of the other to ensure which we have brought the Government, the judiciary and the Copyright Board in between. In addition to the producer and the distributor, there is another section, a large section, of the people

[Shri M. Satyanarayana.] who will either be benefitted or who will very heavily lose in this bargain. That section is the consumer, in other words, the reading population. The reading population belongs to the society and they have got a right to expect from the distributor as well as the producer the just rights of theirs and I am afraid this aspect of the matter has not been taken sufficiently into consideration. When we discussed this point, I found that at every stage people were asking for a longer period so far as the copyright was concerned; some said 20 years and some said 10 while yet others said fifty years and ninety years. I do not know at what age the author produces a book and for how many years after his production he would have his right maintained not only for himself but for his future progeny also. What will happen to the large number of people in the society that has enabled this man to produce the book. After all, whatever is produced—whether it may be intellectual property or spiritual property or material property—it belongs to the society in the sense that society has enabled this man to produce that property; otherwise, he cannot produce. A man living alone cannot produce anything; if he produces, it will be exclusively for himself and it will not be useful for the whole of society. Therefore, the consumer class should have been taken into consideration. It would have been better if we had taken the income derived from a particular book instead of fixing a period. If we had taken into consideration the number of books that have been sold, the total amount that has been earned by the distributor and by the publisher as well as by the producer and then had fixed a proportion of it, it would have been much better; otherwise, there is danger. If a man produces a book, quite a cheap and a popular one, and if his aim is only that he should get more money and for that purpose he produces books, then his intelligence and the inspiration and the incentive for the production of larger number

of books is completely killed and he will not think of earning more money. It is not for the purpose of earning money alone that he does this; if it is for the purposes of earning money he will not be able to produce more. Therefore, it could be stopped at one stage that the money incentive alone is not the real incentive. It is the incentive of real art that he has produced and the work that he has done and the popularity that he has gained and, therefore, the money value should have been minimised and we ought to have said that the right will cease once a lakh of copies had been printed or fifty thousand copies had been printed and that, after that, it will not be within the purview of the Copyright Act. That would have been certainly of great advantage to the whole society. If a quarrel continues between the distributor and the producer, society will lose because the book is stopped from being published and not made available to the general public and the advantages of the intellectual work done by a particular author will certainly be stopped. There does not seem to be an provision under which Government will come in and take charge of the book when there is a dispute between the author and the distributor. In such circumstances, Government should publish the book and must say that if it is not published within a minimum fixed period all rights would accrue to the Government. Government which represents society must undertake this job; it cannot adopt a complacent attitude because the author and the distributor are unable to agree. I know as a matter of fact that the real authors who have produced books did not at all produce them for sale. Authorship of a book is a self-expression; a man who has got the genius to express himself would never think of having to sell it for money purposes and he never does it. Several Members have quoted great authors like Rabindra Nath Tagore. I do not for a moment think that when he wrote his poems, when he wrote his novels, when he wrote his huge literature. Rabindra Nath

Tagore thought that they were going to fetch money. I do not suppose he wrote them for purposes of getting money. It is an insult to the intelligence of the great authors who want to express themselves through their own language to say that they expect money in return for their works. If once a book is produced, if it fetches money and if the flow of money is continued from generation to generation, you will also be killing the incentive of the next generations to produce something which is useful to the society. Therefore, it is not at all a good argument to say that the Copyright Act should continue for forty, fifty or hundred years. It may continue only in order to see that people do not exploit these things for their exclusive benefit; if it is exploited for the benefit of society, it should be allowed. I know of many authors who even do not know that their books would sell but when they see that other people are gaining a lot of money under the protection of this Bill, they may not even come to sell their copyrights at reasonable and good royalty rates. One does not know what exactly one is going to get unless and until the book is put on the market; unless the test is made and its popularity is found out, it is not possible to arrive at an estimate. Some of those authors who have got an over-estimate about themselves and about the popularity of their book and the likely sale value or the income that they may get may be prevented from doing like others by an innocent measure like this. Therefore, all these factors should have been taken into consideration. I am sure that when this measure comes to be administered by the Copyright Board these points will be fully taken note of. It would have been better if we had also given certain directions to the Copyright Board in regard to the lines on which the Copyright Board should function for the benefit of the general society and not exclusively for the benefit of the author or the distributor or for agreement between these two parties.

Sir, I cannot claim to have studied very minutely the whole of copyright but yet, it is a matter of congratulation that at least one section, that is the authors' section, has been completely satisfied as I find from the attitude of Mr. Sinha and others. If that section is satisfied, it is up to them to see that whatever they write, whatever they exhibit or whatever they produce is done for the benefit of the society. We should also see that the society gets the maximum benefit and that the distributor, the intermediary, does not exploit the people.

With these words, Sir, I support the Bill.

SHRI KISHEN CHAND: Mr. Deputy Chairman, Sir, I am very glad that this Copyright Bill is being passed. We all welcome that a man who gives intellectual food, food for the mind of the people of any country, should be fairly rewarded, and it is fair and right that he should get his due share out of the proceeds of his work. An impression might have been created, Sir, that I have been a little harsh on the authors. My whole effort has been to point out, when we are passing this Bill, that there are three parties involved. It is not only the author and the publisher, but there is also the reading public. We have been, during the discussion of this Bill, continuously talking about the author and the publisher. Only these two interests have been considered as if there is a tussle going on between the two.

SHRI AKBAR ALI KHAN (Andhra Pradesh): We have considered the public also.

SHRI KISHEN CHAND: I have very seldom heard, Sir, during the last two days, of the interests of the public being safeguarded. It was always a discussion that the publisher takes away the cream of the thing and why should not the author get it, what percentage should go to the author and what percentage should

[Shri Kishen Chand.]

go to the publisher. We were all thinking in that light and we were not thinking of the reading public. Then we have the easy way of saying that the publishers make lakhs and lakhs of rupees. I am surprised, Sir, that some people have a very queer notion about lakhs of rupees. May I point out, Sir, that if a book in an Indian language is published and the book is sold for Rs. 1-8-0; possibly the profit on that book will be four annas, and even if one lakh copies are sold, the maximum profit can be only Rs. 25,000. Then how is it that everybody, when he was making a speech in this House, was telling that the publishers were making lakhs and lakhs of rupees on every book published? In this way they are giving a wrong impression. What I am trying to point out is that we have been thinking only of the publisher and the author. The author is depicted as a very poor man, who has really created a work of art, a work of genius, and the publisher . . .

SHRI RAJENDRA PRATAP SINHA:

Is it not a fact?

SHRI KISHEN CHAND: I do not want to repeat again and again that not even 1 per cent of the work produced is work of art. The majority of people write books definitely for the purpose of earning money. 99 per cent of the books are written with the sole purpose of earning money. They are text-books, they are notes, they are travel books, they are cheap novels, sensational novels 99 per cent of everything that is written is for the sake of getting money out of it. Only 1 per cent books may be written with the intention of really creating literature. As I said, Sir, we are passing this Bill, but I am sure the hon. Minister will find by his experience that he has ignored the rights of the reading public very largely in this Bill, and I am sure in due course he will have to come up with an amendment and give some more weight to the reading public.

Much was made of the Berne Convention or the Brussels text. You know, Sir, that 50 per cent of the world's population is not under the Berne Convention. It is only the rest of the 50 per cent. And even in such matters, after all, some country may suggest a change. Why should we always follow the Convention or Agreement whether it is good bad or indifferent? We should always think independently. We are a big nation. We are a country with a very large population. We are a large country with a reading public. At present it may not be a large reading public, but it is slowly and gradually growing, and it will in course of time become a very large reading public, and if we create healthy conventions and we make healthy laws, naturally we can set an example to even other countries. We are simply following their convention, and because there is the Berne Convention of 'fifty years after the author's death' we have accepted it. The hon. Minister, at the second reading stage, laughingly said: "Oh, one Member says 90 years; another Member says 30 years, and so 50 years is more or less in between." He did not go into the merits of the case. That is not the way of looking at things. Anyhow the majority will of the House is going to pass this Bill, but I submit Sir, that the time will come when the Berne Convention will be altered. The world is moving in the direction of restricting the rights of such people and when their right is restricted our hon. Minister will come forward and say: Well, the Berne Convention is altered from fifty to thirty years; we must also reduce the period from fifty to thirty years. He will not go into the merits of the case. Simply because the other countries have adopted thirty years we should also have thirty years.

Then, Sir, during discussion various other irrelevant matters were also brought in. Whenever in an argument there is no reason left, people begin to attack personalities. Some people say: Well, you are creating property

rights in favour of house property; you prefer house property but you don't want to give equal rights to these people, these intellectual giants who have created works of art and really served and are serving the society. I admit and agree, Sir, that human mind requires intellectual food, more than physical food. The human being requires more intellectual food than even physical food, and I do not want to minimise these services that the authors are rendering to society but, as I said, there are bad books; there are cheap books, and when cheap books have been written, this Copyright Bill does not put any control on and does not really restrict that in any way and therefore I submit, Sir, that the hon. Minister will try to keep an open mind and think over these problems very carefully and later on he may be convinced of the need for an alteration of the Berne Convention or the Brussels text of which much has been made by certain hon. Members. In a country like ours, which is extremely poor, which is backward and in which education is slowly and gradually rising, you know, Sir, what is the pay of a teacher. Our hon. Members were very careful about the authors, but they did not realise the fate of the poor teacher. After all, if there are no proper teachers, how can education spread? And unless education spreads, where will you find the readers for these books? So I submit, Sir, that Dr. Shrimali, who is in charge of education should realise that, in this Copyright Bill, by trying to safeguard the interests of the authors, he is making the cost of books very high, and in a poor country where the spread of education is very essential, where the teacher is very poorly paid, where a school boy or a school girl has not got any money to purchase books, any money to pay for the fees, to make books dear by this Copyright Bill which has for its purpose the solving of the struggle between the author and the publisher, is not a right step; it is not a step in the right direction. I submit Sir, that though we are passing this Bill

in its present form, the need for a change will come soon and the hon. Minister will then have to accept it.

श्री रामधारी सिंह 'दिनकर' : श्रीमन्, मैं बोलना नहीं चाहता था। लेकिन किशन-चंद जी को कुछ यह शिकायत थी कि कुछ वैयक्तिक बातें हुई हैं। मुझे पता नहीं कि उनके विषय में क्या वैयक्तिक बातें इस सदन में हुई। अगर मैंने नाम लिया तो मैं उनके रूप को जानता हूं, और उनके बारे में मुझे कोई जानकारी नहीं है।

एक बात है कि प्रवर समिति में और यहां भी यह मत बार-बार लाया गया कि अगर लेखकों का कापीराइट अधिकार सीमित कर दिया जाये तो जनता को किताबें सस्ती मिलेंगी। जहां तक टैक्स्ट बुक की बातें बोल रहे हैं किशन चन्द जी.....

श्री किशन चंद : वह भी कापीराइट में है।

श्री रामधारी सिंह 'दिनकर' : वह तो सब ठीक है, मैं मानता हूं जो आप कहते हैं। लेकिन आपको इन समस्याओं का ज्ञान ही नहीं है—पुस्तकों की जो समस्या है, साहित्य की जो समस्या है, कापीराइट की जो समस्या है, उसका ज्ञान नहीं है। आप हर दिन बोल रहे हैं टैक्स्ट बुक, टैक्स्ट बुक। आपको मालूम है कि जब टैक्स्ट बुक मंजूर किया जाता है तो बोर्ड उस टैक्स्ट बुक की कीमत फिक्स करता है। इसलिये टैक्स्ट बुक जो भी होती है, मंहगी नहीं बिकती है।

श्री किशन चंद : मैं प्राइमरी जमातों की टैक्स्ट बुक के बारे में कह रहा था।

श्री रामधारी सिंह 'दिनकर' : टैक्स्ट बुक हर दो साल में बदली जाती है, ज्यादा से ज्यादा पांच साल चल जाती है। दो, चार, दस, पांच किताबें ऐसी ह जो चलती हैं लेकिन बाकी किताबें तुरन्त बदल जाती हैं। उनके लिये कानून बनायें तो वाह, वाह न बनाये तो वाह, वाह। लेकिन यह प्रश्न

[श्री रामधारी सिंह 'दिनकर']

विचारणीय है कि लेखकों का कापीराइट अगर सीमित हो जाय तो किताबें सस्ती होंगी या नहीं। इस सम्बन्ध में मैं पहली बात तो यह कहना चाहता हूं कि अंगरेजी की तुलना में भारतीय भाषाओं की किताबें अभी भी बहुत सस्ती हैं। भारतवर्ष की भाषाओं में अच्छे से अच्छे लेखक की किताब अगर पांच रुपये को बिकती है तो वही किताब अगर अंगरेजी में तैयार हो और देश से बाहर छपे तो १२ रु० उसके दाम होते हैं।

श्री किशन चन्द : पाकेट एडिशन एक शिलिंग का होता है।

श्री रामधारी सिंह 'दिनकर' : व कुछ जो ऊंचे लोग हैं, जिनका नीचे के लोगों से ताल्लुक नहीं है, उन लोगों के लिये है। जिस तरह से विदेशों में पेलिकन सिरीज और पेंविन सिरीज सस्ते दामों में चलती हैं, इस देश में भी कई प्रकाशकों ने यह प्रयोग शुरू किया कि आठ आने में किताबें निकलें, बारह आने में निकलें। हिन्दी में इंडियन प्रेस ने यह प्रयोग बीस वर्ष पहले आरम्भ किये और वह सब गंवा कर बैठ गये। उनका प्रयोग नहीं चल सका। कारण इसका यह है कि—कागज तो इधर इस देश में बनने लगा है लेकिन अभी भी कागज पतला हमारे देश में नहीं बनता। दुर्भाग्यवश, भारतीय भाषाओं के टाइप छोटे नहीं बन पाये हैं कि छोटी या थोड़ी सी जगह पर ज्यादा मटर हम दे सकें, लेकिन जो पुस्तक व्यापारी है, जिसका टैक्स्ट बुक से सम्बन्ध नहीं है, टैक्स्ट बुक जो प्रकाशित करता है, अगर किशन चन्द जी को अनुभव हो तो जानते होंगे, उसको क्या पर्वाह? वह क्यों जायेगा गली गली फिरने? वह तो घर में बैठता है। घर में आकर लोग उसकी किताब लूट ले जाते हैं। हम लोग

जो गीत, कविता, उपन्यास, कहानी, निबन्ध, यात्रा-विवरण लिखते हैं, हमारी पुस्तकों की खपत में दिक्कत होती है। टैक्स्ट बुक जो प्रकाशित करता है वह खुद लुटेरा है, वह हमें लूट कर प्रकाशित करता है। आज तक इस देश में कापीराइट कानून में यह इजाजत दी हुई है कि दो पैसेज किसी भी कापीराइट मेटर से एक स्कूल के लिये निःशुल्क ले सकते हैं। इसका अर्थ प्रकाशकों ने और टैक्स्ट बुक वालों ने यह लगा लिया कि २० पन्ने खींच लो, १० पन्ने खींच लो, ८ पन्ने खींच लो, वही दो पैसेज में। अब कापीराइट बोर्ड ईस्वर की कृपा से बन जाय और दो मुकदमों हो जायें तो देश के प्रकाशकों को यह सूचना हो जायगी कि गलत काम है। लेकिन किताबें जो मंहगी बिक रही हैं इस बात पर विचार करना चाहिये और मैं समझता हूं कापीराइट तो उसका क्षेत्र नहीं था, लेकिन कुछ है समझने लायक बात। सबसे बड़ी बात यह है कि भारतवर्ष में प्रकाशक और दुकानदार पाठक नहीं। पाठक तो दूर हैं। प्रकाशक और दुकानदार के बीच बिचवां एजेंट निकल रहे हैं, यूरोप की नकल पर। उनको खिलाने के लिये किताब की कीमत बहुत रखी जाती है। अभी एक प्रकाशक को मैंने देखा। वह १५ रु० दाम रख कर एक किताब मुझे प्रेजेंट करने आया। मेरी भी किताब उसी दिन छप कर आई थी। मैंने भी उसके सामने अपना किताब रख दी। कहा कि यह मेरे जीवन भर की कमाई है, इतना बढ़िया कागज, इतना अच्छी छपाई, फिर भी दाम रखा है दस रुपया। पांच, सात रुपया हम बिचवां को कमीशन देते हैं और कमीशन खिलाने के कारण भारतवर्ष में किताब मंहगी चल रही हैं। पढ़ने वालों की संख्या कम है, इससे किताबों की खपत नहीं हो सकती है और सरकार बहादुर की भी कुछ कृपा ही है जिसकी ग्रेजुएट पार्लियामेंट के सदस्यों का ध्यान जाना चाहिए। तीन वर्षों से ग्रेजुएट की दर इतनी ऊंची कर दी गई कि

अब बी० पी० पी० से किताबों की खरीद नहीं होती है। शहर में जो पाठक ह वे तो फिर भी शहर की दुकानों से किताब खरीद लेते हैं लेकिन गांवों में जो पाठक हैं वे चिट्ठी लिख कर किताब मंगा नहीं सकते क्योंकि ऐसा हो गया है कि किसी किसी समय लंदन से यदि किताब मंगाई जाय दिल्ली में तो वह सस्ती पड़ेगी, बम्बई से मंगाये तो मंहगी पड़ जायगी। सरकार ने इतनी जोर की वह पोस्टेज की दर बढ़ा दी है कि सारी जगह पुस्तकों की बिक्री ठप है।

श्री जसपत राय कपर : आपने ही बढ़ाई है।

श्री रामधारी सिंह 'दिनकर' : हां, हमने बढ़ाई। एक और विचित्र बात देश में हो रही है। उस ओर हम लोगों का ध्यान जाना चाहिये। वह यह है कि बहुत कृपा करके प्रांतीय सरकारें आजकल किताबें खरीद कर अपने पुस्तकालयों को दिया करती हैं और इसमें मैं समझता हूं कि लाखों की खरीद होती है। यह बहुत बड़ा प्रोत्साहन होता है पुस्तक व्यापार के लिये। लेकिन कहीं कहीं सुना है कि किताबों का टेंडर मागते हैं, जैसे किताब आलू हो। कौन सस्ते दे सकने हैं? दो लाख का आर्डर कौन देगा और कौन सस्ता से सस्ता देगा? तो सस्ती से सस्ती जिन किताबों का नाम अभी किशन चन्द जी ले रहे हैं, वे सस्ती निकलती हैं—उनके लेखकों का पता नहीं कहीं से लूट लिया, कहीं से नकल कर ली। लोग अपने ट्रेन में बैठे उनको पढ़ रहे हैं। बहुत सी हजारों किताबें छपती हैं और उन किताबों का टेंडर भर देते हैं और सारा देश गंदा बनाया जा रहा है। चंद जगहों पर पने कुछ कहा भी लोगों से। जो अधिकारी हैं भी घबराते हैं कि ऐसा क्यों हो रहा है लेकिन कोई देख नहीं पाता। तो यह पुस्तक व्यापार के बड़े बड़े किस्से हैं, उन किस्सों को अगर समझना है तो भाई किशन चन्द जी और हम मिल करके

एक आध प्रस्ताव ऐसा पास करें कि जिससे श्रीमाली जी का हाथ मजबूत हो और ये भी अपनी सरकार में कह सकें कि कुछ न कुछ करना जरूरी है। बाकी जो काम हुआ है अच्छा हुआ है और इसके लिये मैं श्रीमाली जी को धन्यवाद देता हूं यद्यपि पूरा धन्यवाद तभी देता जब बहुत से संशोधन स्वीकार हो जाते।

DR. K. L. SHRIMALI: Sir, I would not like to take the time of the House for a longer period, but I would like to express my sense of appreciation of the co-operation which hon. Members have extended in passing this Bill. It is quite true that this Bill has aroused controversies. The Bill is of such a nature there are bound to be different points of view. As you will recall, when I introduced the Bill the Government had made provision for copyright for the life of author and 25 years. Our whole approach to this Bill has been one of openmindedness. Our main purpose is to restore the authors, the creative genius in their true position. We are building up a new society and in this new society authors have to play a very important role. They give us light; they give us inspiration; they help us in advancing knowledge and in extending the frontiers of knowledge. No society can flourish which does not release the creative energy of the authors. If this measures can to some extent help in releasing the creative energies of the authors, the Government would be greatly satisfied. It is quite true that we have to take into account, being a welfare State, the interests of the society also.

But very often when we talk of the rights of authors, we forget that authors are also part of the society, that authors do not work and live separately from society. If society progresses, the authors must also advance. If the authors cannot contribute anything new to the advancement of knowledge, naturally the society also begins to retard and degenerate. It is, essential to under-

[Dr. K. L. Shrimali.]

stand the close interdependence of creative genius and the society. It is from that point of view that we have brought this measure. When it was felt by hon. Members that a period of twentyfive years would be too small, that it would affect the interests of the authors adversely, we accepted the amendment. When we felt that by bringing the work into the public domain by allowing translation after a period of ten years the rights of the authors would be affected, we also accepted necessary amendments. At the same time, continuously we do keep in mind the interests of the society and I think the type of measure that has emerged is a very happy compromise between an individualistic society and totalitarian society. The individual has been given his due rights. At the same time, his rights are not unrestricted. They are limited, since he has to function in a certain social framework. The individual and the society are both interdependent. If there is one thing which has been constantly borne in mind in piloting this measure, it is this principle. The author lives for the society and the society lives for the author. It is with that view that this measure has been brought forward and the amendments which have been accepted have been accepted from that point of view.

Sir, I would like to say one word more. We have most of the time given our attention to the rights of the authors. This Bill will also promote dissemination of knowledge through radio, gramophone and other mechanical contrivances. Our society is fast changing. We are now using all kinds of means of communication in order to disseminate knowledge. In that sphere also we have to protect the creative genius and also promote the interests of the society. This measure will help in that direction also.

I would like to thank the hon. Members, once again, for their kind co-operation which they have given me in piloting this Bill. Thank you.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

THE RAILWAY PROTECTION FORCE BILL, 1956

MR. DEPUTY CHAIRMAN: Mr. Shahnawaz Khan, please just begin and stop at six o'clock.

SHRI KISHEN CHAND (Andhra Pradesh): It is already extended time. Formerly you had kept it at 5-30 P.M., but because the Budget was delayed and it is being got now.

MR. DEPUTY CHAIRMAN: We cannot adjourn at 5 minutes to six. He will just begin. (*Interruption*). The Chairman announced that it would be presented at six o'clock. I do not want to go back.

THE DEPUTY MINISTER FOR RAILWAYS (SHRI SHAH NAWAZ KHAN): Sir, I beg to move:

"That the Bill to provide for the constitution and regulation of a Force called the Railway Protection Force for the better protection and security of railway property be taken into consideration."

As the Sabha are aware, Railways have their own Watch and Ward Departments for safeguarding their property and the goods entrusted to them for carriage. The Watch and Ward Departments functioning on the Railways have hitherto been handicapped by lack of adequate powers and well defined status as also of a proper sense of discipline to fulfil their primary functions of protecting Railway property and of property entrusted to Railways for transport. The Railways have during these years incurred heavy losses on account of theft and pilferage of railway property and of payment of quite a large number of compensation claims preferred against them.

COPYRIGHT BILL

The Minister of State in the Ministry of Education and Scientific Research (Dr. K. L. Shrimali): Sir, I beg to move*:

"That the Bill to amend and consolidate the law relating to copyright, as passed by Rajya Sabha, be taken into consideration."

In making this motion I should like to make a few preliminary remarks with regard to the important changes that have been made by the Joint Committee and subsequently by the Rajya Sabha.

The House would remember that when the Bill was introduced, for the term of the copyright we had made the provision "the life of the author and a period of twenty-five years after his death". The main purpose of this provision was that after a period of twenty-five years the work should go into the public domain. We thought that the period of the life of the author and twenty-five years after his death was adequate to support the author and the next generation, that is his children.

This matter, naturally, aroused a great controversy in the country and there were sharp, conflicting views on this particular point regarding the term of the copyright. There was one section which believed that the copyright is, after all, a property and therefore even the author should not have unlimited rights. It is true that the author must have full share for his production. That was provided for in the Bill. It was also felt that the family of the author should receive support from the author's works, because very often the family has to depend on the parents, and since the only income for the author is through his works, naturally, the family is dependent on that income.

The main consideration which the Government had in view at that time was that this period should be adequate to provide for the author and

for his immediate dependents; after that period the work should go into the public domain. But there was a strong public opinion that this period of twenty-five years was not adequate. Authors in this country are not rich people, they have to work under very hard circumstances. We do not have many millionaires among authors, and since their family has to depend to a large extent on this income, at the second thought Government felt there was great force in that argument; and, therefore, in the Joint Committee I accepted that amendment and increased the period to fifty years.

Mr. Speaker: What if the copyright is sold away? Can it not be sold?

Dr. K. L. Shrimali: For the life of the author the copyright will be that of the author.

Mr. Speaker: If it is sold away, all this argument disappears—whether his children have to be provided for, etc.

Dr. K. L. Shrimali: It won't go into the public domain automatically.

Mr. Speaker: But it will go away to the publishers.

Dr. K. L. Shrimali: The author is free to give it away to the publisher.

Mr. Speaker: Therefore, all this argument that this is *parampara*, that the children will be protected, etc., all this disappears.

Dr. K. L. Shrimali: But the point is that the author must determine whether he wants to part with his work or wants to keep the copyright to himself.

Mr. Speaker: Most of the authors sell away.

Dr. K. L. Shrimali: This is a point which is coming up. I am taking it up.

Therefore, I willingly accepted the amendment. I hope, the House will generally welcome that change.

*Moved with the recommendation of the President.

[Dr. K. L. Shrimali.]

Another amendment which has been made in the Rajya Sabha is with regard to translation. In the Bill, as it emerged from the Joint Committee, we had provided that, after a period of 10 years, if the author does not translate his work, the work will go into the public domain. The main purpose was, in our country, since we have so many languages, we should have regular interchange between one linguistic group and another. Therefore, we should facilitate this interchange of thought, and interchange of literature. It was felt in the Rajya Sabha that this provision may be a little hard for authors. Once it goes into the public domain, they get no royalty; they do not get any compensation. The period prescribed in the Bill was too short for that. It was, therefore, felt that the public should certainly have the right to translate after a minimum period, but the authors enjoy the compensation or royalty which may be determined by the Copyright Board. In this way, we have tried to meet the claims of the author on the one hand and the needs of the public on the other.

There was another provision which aroused great controversy in the Joint Committee and in the Rajya Sabha, namely, the author's right of re-assignment. Clause 18 in the original Bill gives the right to the author to secure on certain conditions re-assignment of the copyright previously assigned by him. Originally, it was our intention that after a certain period, if the author feels that he would like to have his work back from the publisher, he can get it. This matter was very thoroughly discussed in the Joint Committee and later on in Rajya Sabha. It was felt that though this provision was intended to guard the interest of the author, it would strike against the interest of the author himself. We have to remember that the publisher also is a party in the publication of the work. Without a publisher, a work does not come into existence. A publisher makes

investment of money, advertises the book, and during the first years, he has to make investment. After about seven or eight years, the author goes to him and tells him, I want my book back; though I have assigned the right to you, I want it back. In such circumstances, no publisher would be willing to invest money in the first few years. If a book has to succeed, it is the first few years which are most important. If the publisher always remained uncertain that after a certain period, the author would come back and claim the book, naturally, he would not have any interest in the book. We had to re-examine the whole proposal. In fact, the authors themselves suggested that the clause in the original Bill would not work in their interest. Therefore, we had to change it as in the revised Bill. This Bill, as it has emerged now, tries to meet the various conflicting interests. In the first place, the most important interest is that of the author. We must protect him. In protecting the author and composer and the creative genius, we protect the leaders of our society, who make contribution to our civilisation. The most important objective of this Bill is to protect the rights of the authors. As said even these rights of the authors are not unlimited. We must remember that copyright is after all some kind of property and there must be some restriction. The period we have now provided, that is, 50 years after the death of the author, I think, should be adequate not only to protect the rights of author and also to support his family.

We have to take into account the interests of society also. After all, the author lives in society. It is true that he makes contribution to society. He also has to depend on society for his work, to some extent. No individual can say that he is not indebted to society for the work that has been done whether he is an author or a mechanic or an engineer. Both the individual and society are

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inter-dependent. The individual author and creative genius gives to society. But, he also draws from society. Therefore, we have to take into account the two conflicting interests and try to reconcile them. We have also to take into account the interests of the publisher. Very often, we believe that the publisher exploits the authors. That is the common belief. But, we must also remember that, without the publishers, authors will not come into existence. The publishers sometimes make the authors successful through their efforts, through their investment, through their skill. In our country, just as the authors are poor, the publishers are poor and there are not many millionaires among publishers. It is not for all the books that the publisher gets a good return. Occasionally, he comes across a book for which he gets return. Therefore, while safeguarding the interests of the authors, we have also to safeguard the interests of the publishers. All these interests, the interests of the author, the interests of the publishers, the family of the authors and the interests of society have been taken into account in the Bill which is now before the House. I am glad to say the Bill on the whole has received full measure of support. Of course, in the beginning there was a great deal of opposition but the Government had an open mind on this question and it was in that spirit that we worked in the Joint Committee, not in a party spirit. I willingly accepted the amendments which came from any quarter, amendments which would improve the Bill and safeguard the interests of the authors primarily, because I believe that in promoting the interests of the authors and their creative genius we promote the interests of our society. I do hope that this Bill will receive the full support of the House and will be passed.

Shri M. R. Masani (Ranchi—East):
When this Bill was first introduced it aroused a fairly wide storm of protest

from the ranks of the authors and writers in the country. I recall that last year, when I was not a Member of this hon. House, I had occasion to appear before the Joint Select Committee as a witness along with some colleagues representing leading literary organisations in this country, including the All-India P.E.N. Centre which is the leading writers' organisation in India. We found that the Bill, which was devised for the protection of the rights of the authors, in fact made many inroads into those legitimate rights, and we were rather surprised that the Government, whose intentions we never doubted for a moment, should have brought a defective measures of this nature before the legislature. We pointed out these many defects in our evidence before the Joint Committee and these objections were backed by organisations of writers in many of the Indian languages.

One of the aspects that bothered us a great deal was that, if this Bill had been adhered to in its original form, India's membership of the international community of nations would have been jeopardised. As a signatory of the Berne Union, India had accepted certain broad liberal principles of copyright, and it appeared to us that apart from what it would do to the authors of India, our country was in danger of isolating itself from the world family on an issue where no such isolation was called for.

There were at least three aspect of the original Bill which offended against our international commitments. One was, as has been referred to by the hon. Minister, the truncating of the term of 50 years after the death of the author to one of 25. The second was the principle of the international conventions that no formalities or restrictions should be placed on the exercise of copyright and of suit, to prevent its infringement. And the third principle which was violated was that there should be no confiscation of the rights of an author.

[Shri M. R. Masani]

Various parts of the Bill offended against these very sound and salutary principles.

I am all the more happy, therefore, to be able today, with the support of those organisations, to lend my support to the Bill as it has now emerged from the Joint Committee and the Rajya Sabha. In doing so, may I, with all respect, pay a tribute to the spirit of sweet reasonableness in which the hon. Minister who is now piloting the Bill through this House received and met the point of view of the writers of this country, met it to the extent which in his view and the view of the Government and the Joint Committee was legitimate. It was in a spirit of sweet reasonableness that he met our objections and I am happy that the Bill has now been so modified that almost all of the objections that were originally raised by the writers have been met, and we can now join in welcoming this Bill as, by and large, a sound and good measure.

The question of property has been raised. Copyright is undoubtedly a form of property, but we feel that the right of a craftsman, of an artisan, of a painter, of a musician or writer in his work is certainly a form of property which needs to be protected and nursed rather than attacked even in a welfare society or Welfare State. The writers of India, as the hon. Minister had said, are not known to be among the richest sections of our community. In this land where learning and knowledge are supposed to be respected, I think it is fair to say that by and large authors are an under-privileged section of our community. There are not many millionaires among them. I doubt if there are any, or more than just a handful of people, who can afford to live simply by writing in this country. In that respect we are not as fortunately placed as the advanced countries of the West like the U.S.A., the U.K. or the countries of Western Europe. And therefore to attack

copyright as a form of property seems to be to get hold of the wrong end of the stick. If anything, the author's right to the fruits of his labour is something that needs to be safeguarded from whatever quarter the attack might come. We welcome therefore the restoration of the full period of 50 years after the death of the author, and also the change that the 50 years should start operating from the death of the last joint authors and not the first of joint authors of a book. There are many occasions when a very old and senior professor and a young research student, or a very eminent citizen and a novice join hands to write a book. I myself collaborated many years ago with the late Sir C. Y. Chintamani to write a book called India's Constitution At Work. It would be rather hard on my own family or heirs if my copyright were to lapse 50 years after the demise of the senior co-author.

The second respect in which the Bill was originally not acceptable but has now been improved is the relationship between the author and the publisher. We were rather surprised that the Bill in the first instance appeared to be somewhat loaded in favour of the publisher and the employer as against the author. It was stated that in the absence of a specific agreement to the contrary, the copyright would be with the employer or the person who commissioned the work. I am glad to see that to a large extent the position has been remedied and that the writer, musician and the painter now, by and large, have a fair deal. And here I may say that those who envisage a class war between authors and publishers are not being the best friends of the author either. The Minister was right in pointing out that a great measure of co-operation and interdependence exists between the writer and the publisher. It is true there are publishers who are rapacious and it may also be true that there are authors who are mercenary. I do

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not think an author who expresses himself freely, who preaches certain values to the community, can claim that he is not a grown up person who can look after his legal rights. All that the Bill does is to protect his rights. It cannot ensure that the author exercises his right with wisdom and maturity. Certainly the author is not a child. He does not need legal protection more than other citizens. And these clauses which were in dispute have now shifted the onus. The author now is given parity in his rights *vis-a-vis* the publisher. I think that, in fairness to the publisher as well as the author, the provisions of the Bill as they now stand are not open to the objections which were originally raised.

The third part of the Bill which was originally unacceptable was that which made the registration of copyright compulsory. Originally the Bill laid it down that if an author's copyright was infringed he would be unable to assert that right in a court of law unless he had registered that book with the Registrar of Copyrights. In a sense, that provision would have violated a very important principle, a principle that in our own legislation and in our international commitments we had accepted, which was that the right to my work springs from the fact that it is my work, that my right in my book or my painting does not come from the fact that I go to a minion of the law or a limb of the bureaucracy and register my work. It is my work because I produced and created it as an artist or as a writer.

It seemed to us that to say that a man may not vindicate his inherent right in a court of law unless he had gone and registered it with a part of the governmental apparatus was a very important incursion on the right of the artist in his own creation. I am very happy that that offending clause, or that part of it which was offending, namely clause 65(2), has now been eliminated from the Bill, and the right of the artist and the

creative worker in his own product has been accepted.

Then again, the powers of compulsory licensing which appeared to us in the beginning to be altogether too wide have to a certain extent been limited.

Here, however, may I say that I am not altogether happy with the creation of the Copyright Board and the Registrar of Copyright? In the memorandum that was submitted to the Joint Committee by the PEN and other literary and cultural organisations, it had been urged:

"The Bill reflects the unfortunate tendency towards the proliferation of bureaucracy, which is to be found in much current legislation".

It was urged in that memorandum that the whole of chapter X creating these new organs should be deleted.

While I do not wish to move an amendment on those lines, in view of the fact that both the Joint Committee and the Rajya Sabha have in their wisdom found it desirable to create these organisations, I do feel that I must record my personal protest against this needless addition to the army of officers which we in the present phase of our national life are engaged in creating. When I listened to the Budget the other day...

Dr. K. L. Shrivastava: Is the hon. Member referring to the Copyright Board?

Shri M. R. Masani: The Board and Registrar, but the Registrar and the Copyright Office in particular.

The Copyright Office and the Registrar of Copyrights will no doubt perform their functions with the best will in the world. But it struck me, when I listened to the Budget the other day, whether these were such an essential office and such an essential officer to create at a time when

[Shri M. R. Masani]

we are asking among the poorest sections of our community to do without certain necessities and comforts of life. I am not saying that a Registrar of Copyrights may or may not be a good thing to have in the abstract, but today when we are in this acute financial condition, when every additional job created means a further burden on the public revenues, it does appear to me that we could have very well carried on for at least another generation without any tragic happening without either a Registrar of Copyrights or a Copyright Board. The Copyright Board is really in substitution of the courts of law, and I think we could have allowed the courts of law to adjudicate in these matters and no great harm has come of that process.

Similarly, without our having the Registrar of Copyright, the heavens are not going to fall, and we, as authors, would have carried on with the assertion of our rights in the normal law courts. It does appear to me, therefore, that there is a tendency in these days to rush in with the creation of new State organs and new limbs of bureaucracy with which this country is in danger of being flooded.

Lastly, the Bill has now become one which is not in any way inconsistent with our obligations as members of the international community. I speak subject to correction, but I think I am right in saying that those parts of the original Bill which appeared to deviate from international principles of copyright have now been so modified that we may face our fellow-authors in the rest of the world with pride and say that our country has produced a Bill which can take its place among the enlightened laws of other enlightened nations.

That is the kind of approach which those of us who are identified with literary organisations take. I have very great pleasure in supporting the Bill as it has now emerged from the

Rajya Sabha and as it is placed before us now.

May I say that almost everything that fell from the lips of the Minister was imbued with the same spirit of reasonableness with which he functioned as chairman of the Joint Committee, and I find very little in those remarks with which we can possibly *dis*sen? I support the consideration of this Bill.

Shri Sadhan Gupta (Calcutta—East): While offering my genuine support to this Bill, I shall have to make a few remarks about certain aspects with which I disagree, and if necessary, I shall move amendments to those particular provisions of the Bill.

I must join Shri M. R. Masani in recording my satisfaction regarding some of the provisions which have been altered by the Joint Committee. The Bill as it was introduced was full of most obnoxious provisions, provisions obnoxious to the authors mainly; and those provisions have been removed by the Joint Committee, and the Bill has been very much improved as a result of the deliberations of the Joint Committee.

The Minister was quite right in saying that the Joint Committee did not go into the matter in a partisan manner. There were free exchanges of views, and many of us succeeded in convincing the Joint Committee as to the necessity of altering many of the provisions. Therefore, I have no quarrel with those provisions, except a few which have been altered by the Joint Committee, to which I shall come presently.

In particular, I must mention the provision regarding compulsory registration or rather practically compulsory registration, which the Joint Committee had altered. It was provided that unless an author had registered his copyright, any proceedings by him would be barred.

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[MR. DEPUTY-SPEAKER *in the Chair.*]

That was a grossly unfair thing, and it is very proper that the Joint Committee have taken out that provision.

In order, however, to evaluate the Bill, we should have some idea of the approach which a Bill of this description must have. This is a Bill which seeks to encourage the fruition and the flowering of culture in our country. It seeks obviously to ensure that literary, musical, dramatic, artistic and architectural works must flourish as much as possible in our country. The whole idea of the Bill is to create congenial conditions for it.

Now, it is not enough to make culture flower; it is not enough to say that artistic works are produced in large numbers; it must also be guaranteed that it comes to the public as freely as possible. Between these requirements, namely an incentive for the flowering of artistic works, literary works, or dramatic works, or musical works and the necessity of their free circulation among the public, a balance must be struck.

If we have to encourage the production of works of culture, whether they are literary or dramatic works, whether they are musical or artistic works, or architectural works, it goes without saying that we must give some incentive to the creator, a pecuniary incentive without which the creation may not be forthcoming. Therefore, we must ensure that the author must be in a position to exploit his work for his own benefit and for the benefit of his children. It would be a hideous injustice if the author was denied the right to exploit his work and if in spite of a valuable creation by the author, the children of the author were to languish in poverty.

14 hrs.

I remember it happened in China during the war that due to the vagaries of exchange there a professor, who had a Noble Prize, received only the equivalent of Rs. 750, although the prize was worth a lakh of rupees. That was due to the difficulties of exchange control. The professor and his whole family were languishing in poverty; even though he won a Noble Prize, it did not inure much to his benefit.

This kind of thing should not happen to any author in any country and certainly not to authors in our country. Therefore, ample provision must be made for giving the author security during his own lifetime and a reasonable chance to establish his children through the work. That must be provided for. On the other hand, it must also be provided that after the author has had a reasonable chance of exploiting the copyright for his own benefit or the benefit of his children, the public must have free use of it. The creation must ultimately go to the public domain so that it can be produced in a competitive market and that way the public are enabled to obtain it as cheaply as possible.

How to strike a balance between these two requirements? Has the Bill been able to strike that balance? That is the sole question which we have to consider, and it is on this particular point that I have to place on record some of my differences with the Bill. The Bill, as it was first introduced, provided a term of 25 years from the death of the author. Now it has been changed to a term of 50 years. I would say that both these periods are entirely unscientific. One author may die young; another may die at an advanced age. One might have produced his work at a comparatively early age and the other at a comparatively late age. The result will be that different works will enjoy copyright for different lengths of time, for lengths of

[Shri Sadhan Gupta]

time which would, on the face of it, be patently absurd.

For instance, if the author had produced a valuable work at the age of 25 and dies, say, at the age of 90, his work would enjoy copyright for 115 years, whereas if the same author had produced another valuable work at the age of, say, 85, it would enjoy copyright only for 55 years. On the other hand, if an author, young or old, died just after completing a work and publishing it, that would enjoy copyright only for just a little over 50 years.

This shows the patent absurdity of fixing the limitation of the term of copyright with reference to the death of the author, because the death of the author is an uncertain thing in relation to the length of his life, in relation to the distance of time from the publication of his work. This was a very rough and ready calculation accepted by certain countries of the international community—not by all. Let me remind you that important countries do not accept this 50-year term. For instance, the United States has a different system; first a 28-year term of copyright after publication and thereafter, a copyright renewable for another 28 years. Then there is the case of the Soviet Union. It is 15 years after death. Whatever it is, some countries have accepted 50 years on no scientific basis. Therefore, this objection would be open to any term of year which you fix with relation to the life of the author, whether it was for 25 years or for 50 years or for any other term. Therefore, I should think that we should devise some other system which would be more scientific and which would be more equitable between author and author, and that way we should fix a reasonable term for the copyright.

Now, a plan is conceivable. For example, we can fix the copyright for the lifetime of the author, or if the author dies under a certain age, under

the age of 90, until the time when he would have been 90 years old and subject to a minimum of 30 years. So here we can make it as scientific as possible, so that it goes on for the lifetime of the author. That it should be because the author should have full chance of exploiting his copyright while he is alive. No one would grudge him that. If the author has a comparatively short life, it is necessary that his children should be able to utilise this copyright to establish themselves.

Therefore, if you fix the author limit, till the author would have been 90, then all the children of the author would have been provided for. Now, even then, it may be that the period of the copyright may be uncertain. For example, an author may produce perhaps a valuable work, as I said, at 85. In that case, he would have only 5 years to go and no publisher would think it safe to buy the copyright from him. Under these circumstances, you can provide a minimum term of 30 years so that in any case the copyright would run for 30 years or whatever number of years may seem equitable and which would not run beyond a reasonable limit, which would not run so far into the author's posterity that it might encourage idleness in the author's posterity.

Now, in 50 years after the death of the author, I believe all the children of the author would die and it is the grand-children or perhaps still further on, perhaps some of the great-grand-children who would be enabled to live an idle life on the score of the work done by their grand-father or a great-grand-father. That is a very undesirable state of affairs. I could have understood even that. But the point is that this 50-year term, which is being provided, will in most cases, not be for the benefit of the author but will be for the benefit of the publishers.

That is even more undesirable and the creator of a valuable work of importance will be compelled to sell

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it away to the publishers. As you have pointed out, the authors in our country are poor people and most of them will sell away their rights to the publishers. In these circumstances it is conceivable—perhaps it would so happen—that in most cases if the author lives sufficiently long, the publisher would have a full 100 years or so to exploit the work. That is unconscionable with a vengeance and I do not think we should countenance that kind of thing. If copyright is assured for 30 years, I believe, publisher would have a sufficient time to undertake the risks and thereby authors would gain, the publishers would gain and society also would gain, because after a period of 30 years or, perhaps, more if the author lives longer, the work would come to the public. Therefore I would earnestly appeal to Government to adopt this plan of fixing the term of the copyright.

I know that the Deputy Minister was at one time enamoured of this plan but now, of course, something has happened. That is the thing that I would press for in the interests of equity particularly as between the author and society. Because, after all society should not be denied the access to a valuable work for an unreasonable length of time. It has been sought to be justified—this 50 years' time—on the ground that authors are not rich people and, therefore, they should have this period of exploitation. I know authors are not rich people. But the point is, if the authors are not rich people, should we let the work to be exploited by his posterity. I can understand his children having the fruit of it if it is a good enough work. The children will be profited by it, will be able to establish themselves by exploiting it. But, why should we allow it to be utilised further into his posterity? Let us not forget, that if the authors are not rich people, that it is not they that are going to exploit the work; they are not going to hold on to the work; they are going to sell it away to others and those others will exploit it for this inordinate length of time. Therefore, I

would again request the Minister to adopt a different plan in relation to copyright.

Although this copyright has been lengthened in the case of the authors, one provision has been made which is seriously detrimental to the authors. I mean the provision made in clause 17 of the Bill regarding the first principle of copyright. I think it should be a cardinal principle of copyright that as a rule the creator of the work should have the copyright in his work. If any exception has to be grafted, it must be grafted not by law but by agreement between the creator and some other person in whose interest he might be creating the work.

For instance, a newspaper employs some correspondent to send in interesting stories which may have some value, interesting despatches which may receive wide circulation. If you pay the correspondent adequately there is no reason why the correspondent will not rescind his copyright for you. You can secure the copyright that way. I can understand that the newspaper, whose correspondent the author is, may enjoy the copyright to the extent of reproducing the despatches in the newspaper. But what is the meaning of enabling that newspaper to publish it in any other newspaper, magazine or periodical? I do not understand the meaning of it.

Similarly, it is provided that if an author is employed by someone else and produces a work under a contract of service, it is not the author that will be the first owner of the copyright but it will be the employer. Why? If the employer wants to be an owner of the copyright, if he wants to have the right of exploiting the copyright, let him have an agreement with the author. If he has an agreement with the author there is nothing to bar him from taking the copyright; but, why do you initially grant him the ownership of the copyright? This is not a difference in principle; only in practice it will be causing serious hardships to the authors.

[Shri Sadhan Gupta]

You know, in many cases, the authors may be commissioned by telephone to write for a newspaper. Somebody might telephone to you or to me and say: You write an article for us. I write the article. They publish it in the newspapers. Why should they have the right to publish it in any other newspaper, magazine or periodical? Their right should end by publishing it in the newspaper for which they get it written. If they want this further right, they should pay for it. But, if you provide by law that if you do a commissioned work, it is the person who commissions that will take the first ownership of the copyright, then, placed as the authors are in this country, they will never be able to have a contrary agreement. If the law stands like this, that the author *prima facie* will have the ownership of the copyright apart from the production in the newspaper concerned, then, he might bargain. He may say: Give me something more and I will give you the right. But if you put the law, the other way, if you want the employer to contract out, the author will be in a very unenviable position because he is not a person who can stand out or resist when an offer come to him.

Shri Masani said that he is a grown up person. It may be, he is grown up, but in the circumstances, he is so placed, that it would be very difficult for him to look after himself. Therefore, I would strongly recommend the changing of the scheme of section 17. I think the provisos are absolutely unnecessary. It is enough to provide that the author shall be the first owner of the copyright, subject, of course, to an agreement to the contrary. Whether it is the case of a government work or whether it is the case of other work, there is no difficulty in arriving at an agreement, provided you make sufficient payment. There is no difficulty in arriving at an agreement with the author, however, that he will not be first owner and that it will be the Government or the employer or the persons who claim it will be the first

owner of the copyright. It is only that way that you will strengthen the author's position in bargaining. And, if you put it the other way, the author will never be able to secure the ownership of the copyright from his employer. It is not unknown that in this country employers of this kind are often unscrupulous and they will exploit the advantage with a vengeance and make it impossible for the authors to get the ownership to copyright....

Dr. K. L. Shrimali: What is the suggestion of the hon. Member?

Shri Sadhan Gupta: My suggestion is to only retain the first part of clause 17 with this modification, that is to say, the author will be the first owner of the copyright in the absence of an agreement to the contrary. That is all and all the provisos should be done away with.

I have now a few remarks to make with regard to certain provisions. Regarding the definition of the word 'adaptation', I am very much opposed to defining 'adaptation' in a rigid manner, because 'adaptation' may be of such variety that it may not be possible to cover all kinds of 'adaptation' by rigid definition. For example, here, it has been defined in a certain way and I find that under the definition if any one turns the dramatic work into an opera, for example, it is not covered by 'adaptation'. Therefore, any person can take hold of a dramatic work and may turn it into an operatic work and that kind of piracy will not be covered by the word 'adaptation' and he is free to do it, although if he takes hold of a fiction and turns it into a drama or an opera, then, of course, it will be covered by the word 'adaptation' as defined here. We always prefer 'adaptation' to be understood in a popular sense. Very often in legislating we use popular expressions. They are much better because they are better understood and if we define 'adaptation' as not meaning certain things, but as including certain things concerning which there may be doubts, then, I think the definition of

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'adaptation' will become popular and will enable the courts to do justice between authors and those who commit piracy of their copyrights.

The other remark I would offer is regarding the term of the 'broadcast' reproduction right. I believe the term of 25 years has been fixed for broadcast—reproduction right. I would say that it is hardly conceivable that a radio programme would retain its value for 25 years. Therefore, it is absolutely unnecessary to keep it away from the public for such a long time. I can understand 3, 4 or 5 years, but it is inconceivable that a radio programme will retain its value for so long.

Similarly regarding records of photographs, I think it is inconceivable that any record or any photograph and for the matter of that any cinematograph will retain any financial value for 25 or 50 years. So a lower term should be fixed in respect of these things.

I turn now to a very important provision which arise out of, I think, clause 52. A number of exemptions have been laid down which would not amount to an infringement of copyright. There, I do not find the reports of speeches made in the Legislature, for example. I am speaking in Parliament; it is being reported. Other Members will speak on various subjects. Those speeches will be reported; if we have to publish those speeches, not in a newspaper report, of course, but just publish those speeches otherwise, it would be an infringement of copyright. That is very undesirable. There may be a variety of reasons on account of which we might have to publish these reports; for instance, during an election campaign, there might be a candidate belonging to a rival party who had been in parliament and it may be necessary for another party or another candidate to show him up to the public by publishing his speeches or it might be

necessary for me, Sir, or for any other candidate who is facing the electorate in any election to show up what I have done in the Parliament and if I choose, I should surely be able to publish speeches which I have made or even the speeches which others have made in order to show up the party who is opposing me. I do not see why there should be any hindrances in the way of such publications. Speeches made in the Legislature should be most widely published; they are not very much of a financial value; they do not bring very great profit to the Government. On the other hand, every member of the public is interested in having access to them and every member of the public should have the free right to publish those speeches and to keep the public informed about it, even apart from contemporaneous newspaper reports. Therefore, I would appeal to the Government to accept the amendments which may be tabled later or to bring forward amendments themselves to exempt this category of literature from the rules regarding infringement of copyright.

Having said so much, I once again give my general support to the Bill because by and large it is a Bill which will be of assistance to the authors except for clause 17, of course, and if the Bill is amended, as I have suggested, it will be a valuable instrument in promoting the cultural development of our country.

Shri D. C. Sharma (Gurdaspur):
Mr. Deputy-Speaker, this Bill has a three-fold purpose. In the first place, it is to protect the rights of authors, and in the second place, it is to protect the rights of those persons who are sometimes responsible for subsidizing these authors and in the third place, this Bill provides some safeguard so far as the social aspect of all literary and creative work is concerned. I believe that with regard to the rights of those concerned with money and who are in a position to commission the work of those authors, the Bill has erred on the side of excess. I think

[Shri D. C. Sharma]

this Bill does not give one the impression of the socialistic concept of our society which we are trying to bring into being as fast as possible. I believe that the rights which have been given to these on account of their money, on account of their long purses and on account of their capital which are all there to purchase the work of some others, have been exaggerated. I feel that the ownership of the copyright as vested in these persons and vested also in a very pronounced way should not have happened. After all, so far as creative work is concerned, the money aspect of it is not as important as it is made out to be. The creative aspect of it should have been played up and the money aspect of it should have been played down but I find that in case of certain publications commissioned by newspapers or magazines or journals, this right has been overweighted in the case of proprietors and has not been given a due place so far as authors are concerned. That is the first thing which I wish to say. The second point is this.

Dr. K. L. Shrimali: Will the hon. Member let me know to which Clause he is referring which gives weightage to the proprietor?

Shri D. C. Sharma: Chapter IV entitled "Ownership of copyright and the rights of the owner". I am glad that the rights of the author are also going to be protected. I think this is the first time we are going to have a thing in this way. But I do not understand by what law of equity or of biology or of racial preservation, the framers of this Bill have arrived at the figure of 50 years. It is said that the copyright will vest in the author or his descendant or his heir for 50 years after his death. I think we should not ignore the social aspect of the authorship. We have to take into account the social context of our country and it is this. So far as literacy is concerned, ours is a backward country. Our cultural traditions are great. We have a great legacy behind

us. But taking into account the low incidence of literacy in this country and also the slow progress of free and universal education in this country as well as the fact that the cultural resources of our country are not available to the people at large, I would have thought that the period for which an author could enjoy the copyright after his death should have been equal to the average expectation of life of an individual. This means that you will give this copyright business to an author for about generations. It may be possible in other countries. It may be done in some of the countries of the west. I don't deny it. Perhaps our Minister has many examples of that. But I think it should be done only up to the average expectation of life of an Indian citizen, that is, 30 years or 35 years. From this point of view, I feel that the Bill is very unsatisfactory.

Again, Sir, I would say that this Bill suffers from a great deal of unnecessary verbosity. Of course, the Minister is entitled to ask me as to where the verbosity lies and where it could be found. If I had time, I would be able to point it out. I have been in the habit of condensing works of art and appreciating works of art. I have done works of that kind and I believe that a creative artists—whether he is a composer or a musician or a writer—whatever he may be, should not be saddled with so many legal subtleties and legal complications. This Bill, I believe, has placed a great deal of weight on the poor author. I think the author will now have one foot in the office of the man who pays him and the other foot in the office of the person who is going to interpret the laws of copyright. This Bill has been overweighted so far as legal complications go. I think there are many unnecessary repetitions here. There are many things here which should have been kept out. There is nothing like commonsense to be found anywhere. We have to explain everything when we define a thing. If you want to define a table, you have to define it in correct

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terms and you cannot leave it to the imagination of the reader; so also you have to define what you mean by a chair. This has got to be defined. If I may express a term which now comes to my mind, this Bill is a very big 'legal conundrum.' This Bill is meant for the lawyer and for the interpreters of the law. I agree with what my friend Shri Masani said. I know that certain instructions are very necessary and I know also that the appointment of certain officers is very necessary—all that I know. It is now an integral part of the Bill that we should create a new Board. That new board should have a chairman, members ranging from three to ten and other paraphernalia.

In India, creative writing is not to be found plentifully. It is not on a scale in which it is in some other countries. But, that is not the fault of India. Books are not published in such large numbers here as in other countries. I do not want to name those countries because you get into trouble when you name any other country on the floor of this House. I know that we are deficient so far as publishing is concerned. All that we publish is not to be designated as creative writing. I do not know why all this administrative apparatus is going to be brought into being. This could have as well been left to the High Courts concerned. The Punjab High Court will have done this work for Punjab; similar will be the case with regard to the other States.

We have developed a strange way of doing things during recent years. No Bill is complete and no work is fully done, we feel, unless we can produce for the delectation of the citizens of India, a board complete with all the paraphernalia which we associate with the board—chairman, registrar, deputy registrar and so on.

This Copyright Bill is useful. I do not deny it. But, I also say that the judicial element, if I may call it that way, has been brought into it to such an extent that if any creative artist or author reads this Bill, he will never

try to produce any creative work. This Bill will frighten him into doing nothing.

I am not very happy over the paraphernalia that has been brought into the Bill. We should have waited for sometime and the Minister could have come to us after some time. At that time, he may have said: "Now, this creative talent is diffused in a much larger degree." Then, we could have it.

The most difficult problem in this country is not the problem of copyright or the infringement of copyright but the problem of piracy. There may be all these problems.

Mr. Deputy-Speaker: Would not that be an infringement of copyright?

Shri D. C. Sharma: It is an infringement. Piracy is going on on a large scale in India...

An Hon. Member: Why in India alone?

Shri D. C. Sharma: You know about other countries and you can talk about other countries but I can talk about India.

I was connected with the University and I know that it has brought out some books. Those books have been pirated. It becomes very difficult, with all the paraphernalia of registrar and all that, to detect and publish those pirates. It is not only in the case of a university. I received a letter from a very respectable firm that their book had been pirated. This is very unwelcome. I do not know how this Bill is going to put an end to this piracy. You can even catch me if I bring out some book or somebody's work and give my name there; you can apprehend me if I do anything of that kind. But what do you think of these secret foes of creative writing? They are subterranean criminals who are making an assault on the rights of poor and needy authors. I do not think that this Bill does anything in that

[Shri D. C. Sharma]

direction. Piracy is very much diffused in this country but it is not tackled here. Unless that is tackled, all these Bills will not lead us anywhere.

There is no doubt that Chapter XI, infringement of copyright, has been made very comprehensive. There are many clauses and sub-clauses. Here, I may give you a case. When I was at Lahore, I was called as a witness in a court of law on account of a copyright case. A gentleman produced a book and another gentleman tried to give a liberal and very free translation plus criticism plus appreciation of that very book in a modern Indian language. It was not a translation or abridgement. It had very little resemblance with the original and yet contained what was in the original. Was it an infringement of the copyright? That was the question. The gentleman who presided over that Court—he is now, I think, a Judge of the High Court in one of the countries of this world—said that that was not an infringement of the copyright. It was given there that the right of translation was reserved.

There are very subtle brains in our country who can circumvent the regulation and copyright by producing something which is like the original and yet not like that. It is a paradox. What is there in this Bill to safeguard the interests of these people? I appeared as a witness in that case because it was instituted by the Punjab University. It was the complainant and the defendant was publisher. He had done that and yet there was no remedy for it in the hands of law at that time. Nor does this Bill provide any remedy for that kind of infringement.

In every Bill we give rule making powers to the executive and that has been done in this case also. But, I would ask you one thing, Sir, is it not necessary that the rules should deal

with procedural things and not with basic and fundamental things? The basic and fundamental things should go into the body of the Bill itself. As a person who was a member of the Subordinate Legislation Committee during the last Parliament I can say that our executive very often exceeds the powers which are granted to it in a Bill so far as rule making is concerned.

Dr. K. L. Shrimali: May I refer the hon. Member to subclause (3) of clause 78 where it is stated:

"All rules made under this section shall, as soon as may be after they are made, be laid before both Houses of Parliament...."

They can then be modified.

Shri D. C. Sharma: Sir, I thank the hon. Minister. Like a school master the hon. Minister has tried to teach me a most obvious thing which is a part of every Bill that comes before the House.

Mr. Deputy-Speaker: Perhaps the hon. Minister thought just the same way, that the teacher was teaching him.

Shri D. C. Sharma: Exactly, and you are, Sir, the teacher of teachers and you are teaching both of us.

I wish to submit most respectfully that here the rules which are going to be made by the executive are such as deal with some of the fundamental things that should have formed a part of the Bill itself; for instance, the form of applications etc. When we were discussing some other Bill, I remember the form of complaint etc. were given there. In this case the procedure to be followed in connection with any proceeding before the Registrar is also left to the executive. From my experience in the Subordinate Legislation Committee I can say that the executive is not always very keen on preserving the spirit of the law, and also on keeping within

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the four corners of the powers given. Very often they exceed their powers. If you look at the proceedings of the Subordinate Legislation Committee you will find how many times we have pointed this out. It may not happen in this case, but I must say that these things, which are the very spirit of this Bill, should have been given in the Bill itself by way of an Appendix so that we may know what they are.

Sir, this Copyright Bill is an advance on what exists at this time; there is no doubt about it. But, during the last five years I have found that after we have passed a Bill we bring in an amendment after six months or one year, because we find that the law that has been passed does not work as well as the framers had thought it to work. So my hope does not lie so much in the Bill that is being discussed on the floor of this House now, but in the amending Bill which will come after six or eight months. And I hope that in the amending Bill I will be in a position to bless more than I can do in the case of the present one.

पंडित ठाकुर दास भार्गव (हिसार) :

इस बिल पर कई नुक्ते निगाह से इस हाउस में बहस हुई है। हमारे आन्तरिक मिनिस्टर साहब ने भी फरमाया था कि इस बिल को ज्वान्ट सिलेक्ट कमेटी ने भी कई नुक्ते निगाह से देखा है। इसके अन्दर खास तौर पर आर्थर्स के राइट्स का खयाल रखा गया है और पब्लिशर्स के राइट्स का खयाल रखा गया है और जो सबसे बड़ी चीज है, जिसको कि मिनिस्टर साहब ने बतलाया है, पब्लिक के राइट्स का भी खयाल रखा गया है।

सच तो यह है कि कापीराइट पब्लिक के राइट्स के बखिलाफ एक पहला कदम है। अगर कोई शख्स एक किताब छाप दे या कोई और वर्क ऑफ आर्ट क्रियेट कर दे और उसको सिर्फ अपने ही फायदे के वास्ते रखे तो इसमें कोई शक नहीं कि वह पब्लिक के राइट्स के बखिलाफ एक ऐक्ट है। इस बिल के अन्दर जो बहुत वसीह राइट्स आर्थर्स को दिये गये

हैं यह तो दुरुस्त है कि ये इंटरनेशनल कनवेंशन के मातहत दिये गये हैं, और दूसरे मुल्कों में भी दिये जाते हैं, लेकिन यह कि उसको अपने मरने के पचास साल बाद तक राइट्स रहेंगे यह पब्लिक के हक्क के खसूमन बखिलाफ है। मैं यह समझ सकता हूं कि एक शख्स जिसने अपने दिमाग से कोई अच्छा काम निकाला है वह उसका फायदा अपने तक महदूद रखे। यह ठीक है कि वह उसका पूरा फायदा उठाये लेकिन मौजूदा बिल के मुताबिक तो यह फायदा करीब एक सदी तक पहुंच सकता है। यह फायदा एक आर्थर के वास्ते भी बहुत ज्यादा है। इस जमाने में जिसको कि सोशलिस्ट जमाना कहते हैं, हर एक शख्स जो काम करता है वह मासिवा कि अपने वास्ते करता हो, विला शक व शुबह उसका फायदा और नुकसान पब्लिक को साथ साथ होता है। कोई शख्स कई किताब लिखे या कोई अच्छी तसनीफ करे या और कोई भी अच्छा काम करे, तो वह एब्सोल्यूट गुड और एब्सोल्यूट बैड तो होता नहीं। हर एक किताब के अन्दर ऐसी चीजें भी मौजूद हैं कि जिनसे पब्लिक को नुकसान पहुंच सकता है और ऐसी चीजें भी होती हैं जिनसे पब्लिक को फायदा पहुंचता है। इस वास्ते इन सब चीजों को इस किस्म की मनापली बना देना कि सौ बरस तक राइट रहे मैं जायज नहीं समझता। लेकिन यह इंटरनेशनल कनवेंशन है और यह बिल राज्य सभा से पास हो कर आया, हमारे मिनिस्टर साहब ने इसकी बहुत तारीफ की और वह इसको बहुत अच्छा समझते हैं, इसलिये मैं इस बारे में अपनी नाकिस राय उन पर इम्पोज नहीं करना चाहता और मैं इस उसूल पर ज्यादा नुक्ताचीनी नहीं करना चाहता कि क्यों इसका अर्सा जो कि ओरिजिनल बिल में २५ साल था बढ़ा कर ५० साल तक कर दिया गया है। कुछ सूत्रों में २५ साल भी बहुत ज्यादा हो जाता है। अगर कोई नौजवान तसनीफ करता है और वह बड़ी उम्र तक जिन्दा रहता है तो उसके सामने ही उसके कई जेनरेशन बीत सकते

[पंडित ठाकुर दास भार्गव]

हैं। और उस सूरत में जब कि कोई शख्स सौ बरस तक जिन्दा रहे तो पब्लिक के वास्ते कोई राइट बचेगा इसमें मुझे शक है। इसकी यह एक आसपेक्ट है जिसको अर्ज किये वगैर में नहीं रह सकता था क्योंकि मुझ को यह इतना लम्बा अर्सा बहुत अनकांशनेबल मालूम होता है।

जहां तक आर्थर्स के राइट्स का सवाल है मैं खुश हूँ कि आर्थर्स को और दूसरे अशखास को जो अपनी तसनीफ या अपने लियाकत से ऐसा काम करते हैं जो आम तौर पब्लिक के भले के लिये होते हैं वे मुआवजे के हकदार हैं इसमें कोई शक नहीं है। और वह मुआवजा मुनासिब भी होना चाहिये। लेकिन आज इस कर्मशियल दुनिया में उनको वह मुआवजा पूरा तो क्या मिलेगा, बहुत कम हद तक मिलता है। जब मैं इस में तारीफ पढ़ता हूँ उस शख्स की जिसको कहना चाहिये आथर आफ दी कापीराइट या ओनर आफ दी कापीराइट तो मैं देखता हूँ कि ऐसी किसी चीज में जिस में वह वहेसियत किसी शख्स के पास काम करता वतौर उसके मुलाजिम के उसके अन्दर उसकी जो पोजिशन है वह एक सर्बार्डिनेट की बन जाती है और वह अपनी पावर्स को रैलिगेट कर देता है उस शख्स के हक में जिसके पास कि वह नौकर है। इसका यह मतलब हुआ कि नौकर तो उसको रख लिया गया और साथ ही साथ उसके दिमाग पर और उसकी जितनी दूसरी ताकतें हैं उन पर भी कब्जा कर लिया गया। इसमें कोई शक नहीं है कि उसके भी कुछ राइट्स हैं उस सूरत में जब कि वह किसी दूसरे के पास नौकरी करता है। लेकिन मैं श्री साधन गुप्त की इस क्रिटिसिज्म से सहमत हूँ कि वह आथर खुद ओनर आफ कापीराइट का होना चाहिये और अगर वह कोई आर्टिस्टिक वर्क बनाता है तो किसी सूरत में भी उसकी सैकिडरी पोजिशन नहीं होनी चाहिये। उसको सैकिडरी पोजिशन में रैलिगेट

नहीं किया जाना चाहिये क्योंकि आखिर वही शख्स है जिस के दिमाग से वह चीज निकली है और उसी का, जो दूसरा शख्स है फायदा लेता है महज इस वजह से कि वह उसकी सर्विस में है।

15 hrs.

अब मैं एक दूसरी ही चीज माननीय मंत्री जी की खिदमत में पेश करना चाहता हूँ। जब कि आदमी एक किताब को लिख देता है और उसको पब्लिश करवा देता है तो वह एक तरह से पब्लिक प्रापर्टी बन जाती है खाह उसकी रिपब्लिकेशन का राइट या उसका लाइसेंस देने का हक उस आथर में ही रहे। जब एक बार कोई चीज पब्लिक में आ जाये और पब्लिक उससे फायदा उठा ले तो एक सेंस में पब्लिक को उसके फायदे से महरूम करना जायज नहीं है। हमारे हाउस में जब एक लैजिस्लेटर एक बिल पेश कर देता है या इंट्रोड्यूस कर देता है तो वह जो प्रापर्टी है वह हाउस की बन जाती है और उसकी वह हाउस की मर्जी के बिना वापस नहीं ले सकता है। इंट्रोड्यूस करने के बाद वह उसका मालिक नहीं रहता बल्कि हाउस उसका मालिक हो जाता है। अगर कोई राइटर एक बार कोई काम कर दे और वह पब्लिक के सामने आ जाये तो बाद में कभी भी पब्लिक को उससे महरूम नहीं किया जाना चाहिये। अगर ऐसा होता है तो यह वाजिब नहीं है। आथर को उसका जो हक है वह मिलना चाहिये और जो मुनासिब हक है वह उसको दिया जाना चाहिये। मैं यह नहीं चाहता कि उसको उसके हक से महरूम कर दिया जाये। लेकिन मैं यह चाहता हूँ कि अगर यह पब्लिक इंटिरेस्ट में हो कि उसको रिपब्लिश किया जाये तो इसका इस ऐक्ट के अन्दर उसको अख्तियार दिया जाना चाहिये कि वह इजाजत दे कि इसको रिपब्लिश कर दिया जाये। यह हो सकता है कि वह आथर इस काबिल न हो कि वह

बुद्ध अपने द्वारा इस चीज को पब्लिश करवा सकता हो और ऐसी सूरत में अगर कोई शख्स उससे इजाजत चाहे, तो ऐसे हालात बन सकते हैं कि वह आथर उसको रिपब्लिश करने की इजाजत न दे और उसको कुछ एतराजता हो सकते हैं। ऐसी सूरत में उनको मानना पब्लिक इंटरिस्ट में नहीं है, पब्लिक इंटरिस्ट के खिलाफ है। मैं खुश हूँ कि हमारे आनरेबल मिनिस्टर साहब ने अपनी तकरीर में इस उसूल को तकरीबन तसलीम कर लिया है। उन्होंने कहा है कि सब से जरूरी चीज यह है कि हम रिपब्लिकेशन के राइट्स देना चाहते हैं और पब्लिक के जो राइट्स हैं और जो जायज राइट्स हैं उनसे उसको महरूम नहीं करना चाहते हैं। इस चीज को देखते हुए इस बिल में दफा ३१ जो रखी है उसके चन्द अलफाज मैं आपको पढ़कर सुनाना चाहता हूँ जिन पर कि मुझ को एतराज है। इसमें लिखा है :—

"If at any time during the term of copyright in any Indian work which has been published or performed in public, a complaint is made to the Copyright Board that the owner of copyright in the work—

(a) has refused to republish or allow the republication of the work or has refused to allow the performance in public of the work, and by reason of such refusal the work is withheld from the public; or

क्या करना होगा :—

"the Copyright Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may if it is satisfied that the grounds for such refusal are not reasonable, direct the Registrar of Copyrights to grant to the complainant a licence to republish" etc.

इसके जो ये अलफाज हैं

"if it is satisfied that the grounds for such refusal are not reasonable".

ये पब्लिक इंटरिस्ट के खिलाफ हैं, यह चीज उसी तौर पर गलत है।

The heading is: "Compulsory licence in works withheld from Public".

अगर एक शख्स की वजूहात ये हैं कि किसी शख्स ने उसे पैसा काफी नहीं दिया है, मुआवजा काफी नहीं दिया है, या यह वजूहात हैं कि उसके पास पैसा नहीं है और वह उसको रिपब्लिश नहीं करवा सकता है, तो ऐसी सूरतों में क्या यह कहा जा सकता है कि ये रीजनेबल वजूहात हैं अनरीजनेबल वजूहात नहीं हैं। एक आथर कहे कि मेरे पास पैसा नहीं है और मैं इसको रिप्रोड्यूस या रिपब्लिश नहीं करवा सकता हूँ तो इसमें कौन सी गलत बात है। ऐसी सूरत में बोर्ड उस शख्स को जो लाइसेंस चाहता है जो इसको पब्लिश करवाने का अधिकार चाहता है, हुक्म दे कि इसके लिये वह आथर को मुआवजा दे। अगर कोई शख्स कापीराइट का अधिकार चाहता है तो उसे उस शख्स को इन आल फैयरनेस, ईमानदारी से इसका मुआवजा देना चाहिये और आथर को इसका मुआवजा मिलना चाहिये। चुनावे यह इसके अन्दर प्राविजन है :—

"republish the work, perform the work in public or communicate the work to the public by radio-diffusion, as the case may be, subject to payment to the owner of the copyright of such compensation and subject to such other terms and conditions as the Copyright Board may determine; and thereupon the Registrar of Copyrights shall grant the licence to the complainant in accordance with the directions of the Copyright Board, on payment of such fee as may be prescribed".

[पंडित ठाकुर दास भार्गव]

जहां तक उसूल का ताल्लुक है उसे मान लिया गया है और कहा गया है कि कापीराइट बोर्ड कम्पेंसेशन दिलाये आथर को और कापीराइट लाइसेंस दे दे। लेकिन अगर इसमें यह लिखा जाता और सीधे तौर से लिखा जाता कि अगर पब्लिक इंटरिस्ट में ऐसा करना जरूरी हो तो कापीराइट बोर्ड इजाजत दे दे तो यह निहायत मुनासिब होता। अगर आथर कोई खास वजह देता है और चाहता है कि उसकी किताब को न छापा जाये तो भी मैं एतराज नहीं करूंगा। लेकिन यहां पर तो यह लिखा है।

"Grounds for such refusal are not reasonable.."

मैं अर्ज करता हूं कि ऐसी सूरत में पब्लिक इंटरिस्ट में और उसकी बिना वजह की रिफ्यूजल में या रीजनेबल रिफ्यूजल में, इन दोनों में क्लेश होता है। अगर उसकी रीजनेबल रिफ्यूजल है और वह यह है कि उसके पास पैसा नहीं है, तो यह जो रिफ्यूजल है यह अनरीजनेबल है क्योंकि उसको इसके लिये पब्लिक से पैसा दिलाया जा सकता है, कम्पेंसेशन दिलाया जा सकता है और इस तरह से पब्लिक के इंटरिस्ट को सेफगार्ड किया जा सकता है।

आनरेबल मिनिस्टर साहब एक कापीराइट बोर्ड बनाने जा रहे हैं जिसमें एक शायद सुप्रीम कोर्ट का जज होगा या हो सकता है और उसके अलावा तीन आदमी और होंगे। इस बोर्ड को इस तरह की पावर देने में माननीय मंत्री जी क्यों हिचकचाते हैं, यह मेरी समझ में नहीं आया। अगर यह चीज पब्लिक इंटरिस्ट में हो तो अगर बोर्ड चाहे तो चीज की इजाजत दे दे और इसको रिफ्यूज कर दिया जाये। यह एक मुनासिब बात है और यह पब्लिक का हक भी है। अगर न वह खुद छापता है और न दूसरों को छापने देता है, तो यह पब्लिक गुड में नहीं

है। हां उसको इसका मुआवजा अवश्य मिलना चाहिये। लेकिन इस सब चीज का बेस्ट जज कौन हो। इसका बेस्ट जज आथर नहीं है और न ही वह होना चाहिये। इसमें पब्लिक इंटरिस्ट को देखा जाना चाहिये। अगर उसके पास रुपये नहीं हैं और वह नहीं छापता है तो इसको आपको उसके ऊपर नहीं छोड़ना चाहिये। इसका अखत्यार पब्लिक को होना चाहिये, कापीराइट बोर्ड को होना चाहिये और पब्लिक यूटिलिटी को ध्यान में रख कर यह सब किया जाना चाहिये। अगर इस चीज का फैसला करने का अखत्यार आप खुद भी ले लें तो भी मुझे कोई एतराज नहीं है। अगर आप इस अखत्यार को कापीराइट बोर्ड को देना चाहते हैं तो उसको आप दे दें।

मैं चाहता हूं कि यह पार्लियामेंट जहां कि हाइएस्ट विजडम मौजूद है

"Satisfied that grounds for such refusal are not reasonable".

इन लफ्जों के बजाय

"If in the opinion of this Copyright Board, it is in the interests of the general public, to allow such republication"

यह लफ्ज रख दिये जाते।

मैं अदब से अर्ज करूंगा कि मुनासिब यही है कि इसके अन्दर जहां तक पब्लिक का सवाल है इसको इस हद तक दुरुस्त किया जाये ताकि पब्लिक को इसमें कोई शिकायत न रहे।

सके आगे अगला सेशन ३२ है जो इन्सलेशन के मुताल्लिक है। उसके बार में जैसा कि हमारे आनरेबल मिनिस्टर ने कहा है उन्होंने इसको इसलिये रक्खा है चूंकि इंटरनेशनल कन्वेंशन यही है और वह इंटरनेशनल कन्वेंशन के खिलाफ नहीं जाना चाहते। मैं यह मानने को तैयार हूं कि

मुआवजा अवश्य इस सब चीज का न वेस्ट जज आथर ना चाहिये। इसमें जाना चाहिये। हैं और वह नहीं आपको उसके ऊपर इसका अख्तियार, कापीराइट बोर्ड लक युटिलिटी को रखा जाना चाहिये। करने का अख्तियार मुझे कोई ऐतराज अख्तियार को कापी- हैं तो उसको आप

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क्शन ३२ है जो उसके बार में मिनिस्टर ने कहा रखा है चूंकि है और वह इंटर- लाफ नहीं जाता को तैयार हैं कि

उनकी यह वजह नामाकूल नहीं है और चूंकि उन्होंने दीगर चीजों में जब इंटरनेशनल कन्वेंशन को माना है तो इसमें भी वे इंटरनेशनल कन्वेंशन के खिलाफ नहीं जा सकते थे।

जहां तक लोजिक की बात है मैं उनसे सहमत नहीं हूं और मैं अभी भी अर्ज करूंगा कि लाजिकली यह पोजीशन दुरुस्त नहीं है। मैं मानने को तैयार हूं कि उन्होंने जो यह वजह राज्य सभा में दी वह कुछ नामाकूल नहीं थी क्योंकि इंटरनेशनल कन्वेंशन हमारे वास्ते बाजिब ताजीम है। लेकिन मैं अदब से अर्ज करूंगा कि इंटरनेशनल कन्वेंशन एक चीज है और पब्लिक इंटेरेस्ट और लाजिक दूसरी चीज है। मैं आपसे अदब से पूछना चाहता हूं कि जब असली किताब के वास्ते तो आपने यह ला बनाया है तो किस लाजिक और किस बेसिस पर आप यह रवैया अख्तियार कर सकते हैं कि उसका ट्रांसलेशन करने की इजाजत आप कम्प्लेमेंट को न दें। दफा ३१ में आपने यह लिखा है कि हम कम्पलसरी लाइसेंस किसी इंडियन वर्क को देंगे जो कि विदहेल्ड फ्रोम पब्लिक हो। मैं पूछना चाहता हूं कि ओरिजनल किताब से क्या उसका ट्रांसलेशन ज्यादा सैक्रोसेक्रेट है? उसका "इ" हिस्सा रक्खे जाने के काबिल नहीं है।

इस बिल पर राज्य सभा में हुई प्रोसीडिंग्स को पढ़ने से यह मालूम हुआ कि वहां पर (इ) सेक्शन के ऊपर ऐतराज किया गया और उसके ऊपर बहस हुई।

एक मेम्बर साहब ने इस तरह फरमाया :

"May I also ask one question? According to clause 30, you permit even a book which has been withdrawn by the author to be published. You say that a licence can be granted to publish that book. So you permit the publication of a book even though it is withdrawn, but you will not permit the translation of a book which has been withdrawn. According to clause 30, the Copyright Board cannot give permission to translate that

book. That means you can publish the original book but not translate it".

यह आबजेक्शन था और वहां पर एक मेम्बर साहब ने फिर ऐतराज किया और इस तरह कहा :

"Part (e) says: 'that author has not withdrawn circulation of copies of the work'. The words 'unless' and not cancel each other, which means that if a book has been withdrawn from circulation, then its translation shall not be permitted. So, the position will be this. The original book, though withdrawn, will be permitted to be published under clause 30, but under this clause as proposed, its translation will not be permitted."

Mr. Deputy-Speaker: He might give these arguments on his own behalf. He need not refer to the speech of another Member of the Council.

Pandit Thakur Das Bhargava: I will not read out; you will excuse me. I want to read what the hon. Minister said at that time. The Minister made a reply which did not favour the acceptance of that amendment. On that the Deputy-Chairman said:

"I think their doubt is this. If any person makes an application to the Copyright Board, in spite of the fact that the author has withdrawn his work, if it is in public interest, the Copyright Board can give permission to republish, enact or televise. That is, under clause 30, you allow republication, but under clause 31, if the author has withdrawn from circulation a particular work, then nobody can be allowed to translate it. One is contradicting the other. That is their doubt."

डिप्टी चैयरमैन ने आनरेबल मिनिस्टर को वहां इस तरह एक्सप्लेन किया।

Then Dr. Shrimali said, "I do not want to press this. I am quite prepared for the deletion of this."

Dr. K. L. Shrimali: Read the whole thing.

Pandit Thakur Das Bhargava: I will read. The Minister said:

"My reason why I wanted it to be retained was that this is in accordance with the Universal Copyright Convention."

I do not say that the argument is bad, but at the same time, I say that whatever may be the Universal Copyright Convention, if a thing is illogical or is such that you ought not to accept it, you ought not to care for the convention also in particular matters. It may be a very small matter. This Member said, "I want the deletion of part (e)", but the Deputy-Chairman said, "No; I will put the whole clause".

Mr. Deputy-Speaker: The rule that we have framed on this point is Rule 354, which reads:

"No speech made in the Council shall be quoted in the House unless it is a definite statement of policy by a Minister:

Provided that the Speaker may, on a request being made to him in advance, give permission to a member to quote a speech or make reference to the proceedings in the Council, if the Speaker thinks that such a course is necessary in order to enable the member to develop a point of privilege or procedure."

पंडित ठाकुर दास भार्गव : मैं इस रूल से वाफिक था और इसी वजह से मैं ने किसी मेम्बर साहब का नाम नहीं पढ़ा लेकिन आनरेबुल मिनिस्टर और हाउस के सामने पूरी तरह से अपनी बात रखने के लिये और आर्गुमेंट के तौर पर अपनी बात समझाने के लिये यह जरूरी था कि बगैर किसी मेम्बर का नाम लिये वह आर्गुमेंट उसी तरीके से मैं यहां पर रखता जैसे कि डिप्टी चेयरमैन साहब ने उसे राज्य सभा में समझा था । मैं अपने अल्फाज में वह फोर्स नहीं ला सका था जिस तरह कि आनरेबुल मिनिस्टर ने

वहाँ पर फरमाया था और डिप्टी चेयरमैन ने जिस तरह से उसको समझा था . . .

उपाध्यक्ष महोदय : वहां की कार्यवाही को करना हमारे रूल के बरखिलाफ होगा । एक मेम्बर ने क्या कहा और दूसरे मेम्बर ने क्या कहा, उस सब का रेफरेंस यहां डिटेल् में देना वहां की कार्यवाही को कोट करना होगा जो कि हमारे रूल को ऑफेंड करता है ।

पंडित ठाकुर दास भार्गव : मेरी नाकिस राय यह है कि मैं ने रूल को बिल्कुल ऑफेंड नहीं किया । मैं उनको स्पीच को बतौर कोटेशन कोट नहीं करता । यह आर्गुमेंट था और यह जवाब दिया गया इस वास्ते इसे कोट करना नहीं माना जायगा । वहां पर मिनिस्टर महोदय ने फरमाया था :

"I am prepared to delete this; this will become meaningless."

यह कोई मानी नहीं रखता । मैं ने तो उन्हीं मंत्री महोदय के अल्फाज को यहाँ पर कहा है . . .

उपाध्यक्ष महोदय : डिप्टी चेयरमैन ने क्या कहा या किन्हीं मेम्बर साहब ने क्या कहा, यह चीज कोट करना मना है और इसी और मैं ने आनरेबुल मेम्बर की तबज्जह दिलाई थी ।

पंडित ठाकुर दास भार्गव : मैं अर्ज कर रहा था कि यह मैं ने माना कि इंटरनशनल कन्वेंशन इस तरीके का है लेकिन मैं अदब से अर्ज करना चाहता हूं कि वह इंटरनशनल कन्वेंशन जब रूल ३१ बना दिया तो उसके साथ रूल ३२ में वह मेल नहीं खाती । अगर किसी असली चीज के पब्लिकेशन की आप इजाजत दे सकते हैं तो उसके ट्रांसलेशन की इजाजत रोकना मेरी नाकिस राय में वाजिब और मुनाबिस नहीं है और न ही वह लाजिकल है । जहां तक इंटरनशनल कन्वेंशन के फोलो करने का सवाल है जैसा कि मिनिस्टर साहब

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ने फरमाया है तो मेरी अदब से गुजारिश यह है कि ऐसा करते वक्त यह भी देखना चाहिये कि यह लाजिकल है या नहीं। और वह दुरुस्त है और मानने के काबिल है भी या नहीं।

जहाँ तक दफा ३१ का सवाल है पब्लिक को राइट है कि वह अपने पब्लिक राइट से महरूम न हो जाय और इसलिये पब्लिक इंटेरेस्ट में यह दफा नहीं है और इसलिये मुनाबिस नहीं है। मैं आनरेबुल मिनिस्टर की खिदमत में अर्ज करूंगा कि उन्हें इस अमेंडमेंट पर राजी हो जाना चाहिये बल्कि खुद अमेंडमेंट करना चाहिये।

उसके आगे जनाब वाला मुलाहिजा फरमाये। मैं खुश हूँ कि इंटरनेशनल कॉपी-राइट के बारे में बिलकुल ठीक रवैया अख्यतार किया और रिसीप्रोसीटि के प्रिंसिपल्स को देखा गया।

इस के अन्दर एक सेक्शन ६० है जिस की तरफ मैं थोड़ी सी तवज्जह दिलाना चाहता हूँ : बजाय इस के कि आथर कापीराइट का ओनर मुद्दी हो कर आये, वह रिसपोन्ड बनता है। दफा ६० की शकल कुछ ऐसी बनी कि मानो यह किसी ऐसी जगह का कानून है जहाँ पर जो कापीराइट के ओनर्स हैं वह कुछ ओर्टेनिंग ऐटिट्यूड अख्यतार करते हैं, वह धमकाते हैं दूसरों को कि अगर तुमने ऐसा कुछ किया तो हम तुम पर मुकद्दमा कर देंगे, यह कर देंगे, वह कर देंगे, तो ऐसे शख्स को, दि आब्जेक्ट्स आफ दोज थ्रट्स को, कुछ राइट दिया गया है। ओनर आफ दी कापीराइट को अख्यतार दिया गया है कि अगर उसके राइट्स का इन्फ्रिजमेंट होता है, वह कटेम्प्लेटेड हो, ऐप्रिहेंडेड हो, तो वह इंजेक्शन का दावा करे, यह तो अलग चीज है, यहाँ पर दूसरी शकल है कि अगर कोई शख्स ओनर आफ दि कापीराइट को थ्रट दे कि हम तुम पर दावा करेंगे, तो एक थर्ड पर्सन

को खास तौर पर राइट दिया गया है, उस थ्रट से बचने के वास्ते। मेरे ख्याल में यह किसी और जगह के लिये जरूरी हो सकता है, लेकिन हिन्दुस्तान के अन्दर अगर कोई मजलूम रहता है तो वह ओनर आफ दि कापीराइट है, उस के ऊपर हजारों ग्रुल्म होते हैं। लोग किताब छापते हैं, थोड़े से अल्फाज में फर्क डाला कुछ पैराज में फर्क डाला, चैप्टर कुछ दूसरे कर के, दूसरे लोग उसे रिप्रोड्यूस कर लेते हैं, यहाँ तक तो वह ठीक रहता है। लेकिन यह चीज एक ऐसे मुल्क से इम्पोर्टेड है जहाँ पर हालात दूसरे हैं। वहाँ पर राइट दिया कि मुद्दी मुद्दालय बन कर फैसला करा ले। यह तो हमारे यहाँ इम्पोर्टेशन है, स्ट्रेन्ज इम्पोर्टेशन है।

इन हालात में मैं अर्ज करूंगा कि जहाँ तक इस कापीराइट बिल का सवाल है, मैं खुश हूँ कि हमारी सरकार ने और हमारी ज्वायंट कमेटी ने, हमारी मिनिस्ट्री ने मेहनत कर के यह हुकूक देने की कोशिश की है। जैसा मेरे दोस्त श्री शर्मा ने फरमाया, इस बिल पर और अमेंडमेंट आयेंगे, लेकिन यह एक ग्राउनु वर्क है, स्पेनु वर्क है, जिस पर हम आगे बढ़ेंगे। अब तक हम बिलायत के सन् १९११ के ऐक्ट पर अमल करते चले आ रहे थे। अब हम उस झंझट से निकाल कर इस को एक बेसिस पर लाये हैं। अगर आइन्दा कोई अमेंडमेंट होगा तो इस कानून का होगा। यह एक बड़ी भारी सर्विस है जिसे मैं ऐप्रिशिएट करता हूँ, और मैं मुबारकबाद देता हूँ कि ज्वायंट कमेटी और गवर्नमेंट को कि उस ने हमारे सामने एक ऐसा खूबसूरत अमेंडमेंट इस बिल की शकल में पेश किया है। इस में कई जगहें ऐसी हैं जिस में आगे चल कर अमेंडमेंट हो सकता है, लेकिन उन्होंने हमें एक झगड़े से, जंगल से निकाल कर हमारे सामने एक खूबसूरत चीज पेश कर दी है, इसके लिये मैं उन का निहायत शुक्रगुजार हूँ।

Shri Pattabhi Raman (Kumbakonam): Sir, I wish briefly to refer to certain aspects of the copyright Act in view of the observations of my hon. friend Mr. Sharma and others.

The Act that was in force was the 1914 Indian Copyright Act, which was more or less linked to the Copyright Act of 1911 of England. Under the then law the Indian Copyright Act was related to the English Copyright Act, as could be seen from the number of expressions like 'His Majesty's Dominions', 'Executive Committee of the Council', 'the Crown' and all that. And finally the reference to His Majesty, under section 29 of the U.K. Act, providing for all the proclamations, made it incumbent on our having a separate Act. And we had, as was pointed out by Mr. Masani, to ratify the Berne Convention and the revised Brussels and Universal Copyrights Conventions. Hence the necessity for the Copyright Bill.

This Copyright Bill, as now brought before the House after its passage in the Rajya Sabha, if I may say so, is highly commendable. I will confine myself only to one or two remarks with regard to the translation aspect of it. But before I do so, it might be interesting for the House to know that under clause 20 of the Copyright Bill as it was placed before the Rajya Sabha, they proposed to fix a limit of 25 years for republication as well as for translation. Thereafter the Bill went before the Joint Committee, who after hearing representations from the affected people and after mature deliberation reverted to the existing period of fifty years for reproduction and ten years for translation. Then, in the Rajya Sabha the translation period was also raised to fifty years; that is to say, it was made coeval. The right of republication and the right of translation were both raised to fifty years. Of course, there was a provision for a licence in the case of works withheld from the public, referred to by my hon. friend Pandit Thakur Das Bhargava, under clause 31. If there is a

refusal to publish, or rather for the republication of the work, or if it is withheld without any sufficient reason, it is always open to the public to go to the Board and apply for licence.

As it then stood, the Joint Committee gave many reasons for keeping the period at ten years so far as translation is concerned. They referred to the various languages that are prevalent in India and how it was very necessary for important works to be translated and to be made available to the public, or, in other words, for important works to be thrown into the public domain, say, within ten years after its publication. That, I personally think, is too low a period. I am wondering whether it would not be possible to strike a medium between fifty as now passed by the Rajya Sabha and ten as recommended by the Joint Committee and confine it to a period of twenty-five years.

I am suggesting this for this purposes. Suppose a person who is alive after the publication of his book keeps quite for a period of ten, fifteen or twenty years without getting it translated—not that it is incumbent on him to translate it—but suppose he keeps quite. It should be open to another person to seek out the work, and to get it translated into other languages. After all, we have so many languages in India, and it may be very important for these works to be translated into other languages, without the translator having to go before the Board and going through the cumbersome process of getting a licence. If a period of twenty-five years is given for translation, I thought it would suffice. I have nothing more to say with reference to translation.

Some reference was made to the socialistic pattern of society and the author's rights. On that I wish to say that it is not an unearned income. The author works very hard to get the income. He may write only one book actually and where technical

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books are concerned, he may live to see only one book published. The Income-tax law gives some concessions to authors of books. It is not as if it is a rule of thumb—taxation being made on the income of the first edition. Even that law envisages some sort of a concession to authors of books. And in Russia, my hon. friend will not be surprised to know that the people who live in great comfort, perhaps much more comfort than the ordinary people, are the authors and scientists and people who bring out books and treatises and brochures and publications. Therefore, to bring in the question of the socialistic pattern of society against the provision that for fifty years the properties should ensure in the author, is missing the point. After all, if a man who is a lawyer or a doctor can earn and get the benefit of that earned income, the author deserves it much more; because it means many hours spent by the candle light and work at all hours of the day. And it may even be that the author may not be able to see the worth of his work appreciated in his lifetime. Such being the case it is but meet and proper that his family and children, who depend on him should benefit by the work.

Therefore, confining myself only to the aspect of translation, I would commend this Bill for the acceptance of the House.

श्री बजरज सिंह (फिरोजाबाद) :

उपाध्यक्ष महोदय, यह जो कापीराइट बिल मिनिस्टर महोदय ने सदन के सम्मुख रक्खा है, उस का मैं सम्मिश्रित भावना के साथ आदर करता हूँ। यदि इस तरह का कानून पहले रहा होता तो कम से कम हिन्दी भाषा के सम्बन्ध में मैं कह सकता हूँ कि प्रेम चन्द जैसे उपन्यासकार की संतति, उन के बच्चे कुछ समय तक भूखे न रहे होते। इस तरह से इस बिल का बहुत ही अच्छा भविष्य होगा और इस से हमारे लेखकों और दूसरे निर्माण कर्ताओं

का बहुत ही लाभ हो सकता है। लेकिन इस के साथ ही साथ इस में कुछ इस तरह की धारारें हैं जिन में कुछ सुधार की आवश्यकता है, कुछ संशोधनों की आवश्यकता है, खास तौर से मैं सरकार का ध्यान धारा १६ की तरफ दिलाना चाहूंगा। धारा १६ में कहा गया है :

"No assignment of the copyright in any work shall be valid unless it is in writing signed by the assignor or by his duly authorised agent."

जहां तक एसाइनमेंट का सवाल है, यह ठीक है कि वह राइटिंग में हो लेकिन सिर्फ राइटिंग में होना ही काफी नहीं है, उसकी रजिस्ट्री भी होनी चाहिये। जहां तक दूसरी जायदादों के क्रय विक्रय का सवाल है वह भी रजिस्ट्री द्वारा होता है। ऐसा हो सकता है कि किसी वक्त कोई लेखक बहुत मुसीबत में हो और इस वजह से उसके निर्माण कार्य के अधिकार की कोई पैसे वाला बहुत ही कम पैसा दे कर खरीद ले। तो इसकी रक्षा के लिये यह आवश्यक है कि एसाइनमेंट सिर्फ लिखित ही न हो बल्कि उसकी रजिस्ट्री भी होनी चाहिये। यदि यह संशोधन मान लिया जाये तो जिस उद्देश्य से यह बिल रखा गया है वह उद्देश्य अधिक पूरा हो सकेगा।

यहां पर कुछ मित्रों ने ऐसी बात कही जो कि कुछ प्रतिक्रियावादी सी मालूम होती है। उनका कहना है कि जनहित में यह जो पचास साल का समय रखा गया है वह ज्यादा है। लेकिन मैं निवेदन करना चाहूंगा कि इस अधिकार को पचास साल तक रखने के लिये दृष्टिकोण ही दूसरा है। जो निर्माण करते हैं, चाहे वे कवि हों, लेखक हों या कलाकार हों, वे पूंजीपति किस्म के आदमी नहीं होते। वे तो ऐसे लोग हैं कि जिनको मजदूर कहा जा सकता है, कोई कलम का मजदूर है, कोई मस्तिष्क का मजदूर है और कोई दूसरे प्रकार का मजदूर है। यह कहना कि उनको जो

[श्री ब्रजराज सिंह]

पचास साल के लिये कापीराइट दिया जाता है यह जनहित में नहीं होगा, मैं समझता हूँ कि यह गलत दृष्टिकोण है।

सरमायदारी प्रथा के अनुसार यह बात अच्छी लग सकती है कि यह बात जनहित में नहीं है कि यह अधिकार पचास साल के लिये दिया जाये, लेकिन यह भी तो देखना पड़ेगा कि यह अधिकार क्यों रखा जा रहा है। यह अधिकार उसको दिया जा रहा है जो पूंजीपति नहीं है बल्कि जो मजदूर तबके से आता है। मैं समझता हूँ कि यह जो पचास साल का समय रखा गया है इसे किसी तरह भी कम नहीं किया जाना चाहिये। लेकिन इसके साथ साथ मैं निवेदन करना चाहूँगा कि धारा २८ में यह लिखा है :-

"In the case of a Government work, where Government is the first owner of the copyright therein, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published."

जहाँ गवर्नमेंट स्वामी है वहाँ पर इस मियाद को कम किया जा सकता है और दस या बीस साल तक भी किया जा सकता है। इस मियाद को कम कर दिया जाये तो यह जनहित में होगा।

इसी तरह से धारा २९ में दिया गया है :-

"In the case of a work of an international organisation to which the provisions of section 41 apply, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published."

अगर किसी अन्तर्राष्ट्रीय कानून के अनुसार हम इस मियाद को कम नहीं करते हैं तब तो दूसरी बात है, पर यदि कोई अन्तर्रा-

ष्ट्रीय कानून की बाधा न हो तो इसको भी कम कर दिया जाना चाहिये और ऐसा करना जनहित में होगा। ऐसा करने से जनहित की भावना और भी प्रबलतर हो जायेगी।

एक मित्र ने इसी सिलसिले में कहा है कि धारा ३१ में से निम्न लिखित शब्द निकाल दिये जायें :-

"...the Copyright Board, after giving to the owner of the Copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that the grounds for such refusal are not reasonable, direct the Registrar...."

मैं समझता हूँ कि इन शब्दों को हटाना जनहित में नहीं होगा : मैं समझता हूँ कि इन शब्दों का रहना इस बिल की भावना की रक्षा के लिये बहुत आवश्यक है। इस बिल का उद्देश्य यह मालूम होता है कि जो लेखक हैं या कवि हैं और जो समाज को नई चीज देते हैं उनकी इन चीजों की रक्षा की जानी चाहिये। तो यह कहना कि इन चीजों को जनहित में जबरदस्ती ले लिया जाये, यह उचित नहीं होगा। यह कहना कि इन शब्दों को निकाल दिया जाये उसी दृष्टिकोण का पोषक है कि एक कवि, लेखक या कलाकार भी एक सरमायदार की तरह ही उत्पादन करता है। परन्तु वास्तव में वह पूंजीपति नहीं है। इस बिल का दृष्टिकोण यह है कि वह व्यक्ति पैसा लगाकर कुछ पैदा नहीं करता बल्कि अपना मस्तिष्क या कलम लगाकर कुछ पैदा करता है। इसलिये इन शब्दों का रहना इस बिल की भावना की रक्षा के लिये आवश्यक है। मैं समझता हूँ कि इन शब्दों को इसमें से नहीं हटाया जाना चाहिये। जहाँ मैं इस बिल की भावनाओं का आदर करता हूँ वहाँ मैं अपने मित्र

श्री डी० सी करता हूँ कि कार्यान्वित न लिये बोर्ड नहीं समझत काम हम छोड़ दें तो है और बो नहीं है।

साथ है समाचारपत्र में वेतन पर समाचार प बना देना, साथ उचित समझता हूँ महोदय क कवियों आ पहुंचाये। उचित रूप उसका प्र या संस्था कलाकार

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वर्षों को हटाना समझता हूँ कि कल की भावना शक्य है। इस होता है कि जो समाज की चीजों की रक्षा कहना कि इन हस्ती ले लिया। यह कहना या जाये उसी क कवि, लेखक दिर की तरह तु वास्तव में का दृष्टिकोण कर कुछ पैदा त्क या कलम इसलिये इन वना की रक्षा ता हूँ कि इन ताना चाहिये। वनाओं का अपने मित्र

श्री डी० सी० शर्मा की इस राय का स्वागत करता हूँ कि इस कानून को नौकरशाही द्वारा कार्यान्वित नहीं कराया जाना चाहिये। इसके लिये बोर्ड आदि बनाने की मैं आवश्यकता नहीं समझता। इसको कार्यान्वित करने का काम हम विभिन्न प्रदेशों के हाईकोर्टों पर छोड़ दें तो मैं समझता हूँ कि काम चल सकता है और बोर्ड आदि बनाने की आवश्यकता नहीं है।

साथ ही जो लेखक या कवि या कलाकार समाचारपत्रों में, दूसरी फर्मों में या संस्थाओं में वेतन पर काम करते हैं उनकी कृति का भी समाचार पत्र या फर्म या संस्था को स्वामी बना देना, मैं समझता हूँ कि कलाकार के साथ उचित न्याय करना नहीं होगा। मैं समझता हूँ कि इस बिल के द्वारा मिनिस्ट्र महोदय का यह उद्देश्य है कि लेखकों और कवियों आदि को अधिक से अधिक फायदा पहुंचाये। इस बिल की भावनाओं की उचित रूप से रक्षा तभी हो सकती है जब कि उसका प्रथम स्वामी हम समाचारपत्र, फर्म या संस्था को न बना कर लेखक, कवि या कलाकार को ही बनावें।

इन शब्दों के साथ मैं इस बिल का सम्मिश्रित भावना के साथ स्वागत करता हूँ और आशा करता हूँ कि मंत्री महोदय इन संशोधनों को स्वीकार कर लेंगे।

Mr. Deputy-Speaker: I have to inform the House that the recommendation of the President under Article 117(3) of the Constitution for the consideration of the Copyright Bill, 1957 by Lok Sabha has been received. This is the communication.

"The President, having been informed of the subject matter of the Copyright Bill, 1957, as passed by the Rajya Sabha, recommends, under Article 117(3) of the Constitution, the consideration of the said Bill by the Lok Sabha."

Dr. K. L. Shrimali: I am very grateful to hon. Members for the general welcome they have given to this measure. As they said, Government have given very serious thought to this particular measure because, the releasing of creative energy in our country.....

Shri Narasimhan (Krishnagiri): Just on a point of order—I do not want to disturb—for the sake of strict procedure, are we to understand that this Bill was discussed by the Rajya Sabha without the President's recommendation?

Mr. Deputy-Speaker: No. That was a different recommendation by the President for consideration by the Rajya Sabha. Another is required for this House. That is what we have received.

Dr. K. L. Shrimali: I was saying that this Bill is of great significance because on the successful operation of this Bill will depend the measure of our success in protecting the rights of the authors, poets, painters, musicians, composers and various other persons who are engaged in creative work. It is very important to protect their rights because these are the people who raise the general intellectual and cultural standards of our society. I am personally very happy that the House as a whole has given general welcome to the changes that have been made by the Joint Committee and the Rajya Sabha. I shall now deal with some of the important points which have been raised by Members.

15.42 hrs.

[PANDIT THAKUR DAS BHARGAVA
in the Chair]

The question was raised with regard to the terms of the copyright. That is a very controversial question, and it involves philosophical implications. Originally, as the House is aware, we did want to keep this period only for 25 years after the death of the author. I have explained to the House the reasons why, after hearing the arguments of the authors and the various

[Dr. K. L. Shrimali]

persons who are working in the field Government changed their mind. It is true that we are living in a socialist society and there must be restriction on the rights of property, whatever the property may be. And nobody will dispute or deny that copyright is a kind of property. That is accepted. But the point is we have to take into account the actual conditions under which authors are working. Are they in a position to engage themselves in creative activity and bear these restrictions at the same time? Can anybody be engaged in creative activity if all the time he is worried whether he is going to get his bread tomorrow or not and what is going to happen to his children? Authors are also human beings. They have also natural urges, they are also moved by natural instincts. They must also preserve themselves and preserve their families. For the majority of the authors, the only source of income is their writing. Therefore, I do not think we should grudge having extended this period to 50 years. As I said, originally my own view was that this should be restricted to 25 years, but I saw the force of the argument advanced by my friend Shri Masani and various organisations of authors who were interviewed by the Joint Committee.

There was another advantage in accepting the period of 50 years. As my friend, Shri Masani, has pointed out, we will fall in line with most of the countries which are signatories to the Berne Convention. If we keep 25 years and continue to remain signatories to the Berne Convention, it would mean making a discrimination against our own authors. We will, of course, have to give protection to foreign authors for a period of 50 years, but for our own authors the period would be reduced to 25 years and that would work against the interests of the authors in this country. Therefore, I hope the House would agree to this change that has been made. It will work in the general interests of the authors.

Another question has been raised with regard to the relationship between the authors and employers, and it has been said by hon. Members that the Bill is partial to employers, that it gives greater rights to the employers and denies fundamental rights to the authors. If I have to choose between the author and the employer, my sympathies are with the author; if I have to choose between the composer and the gramophone company, my sympathies are with the composer; if I have to choose between the author and the publisher, my sympathies are with the author. But we must remember the basic fact that they are interdependent. Unless we keep this in view, we shall be doing great harm to the authors themselves, to the people engaged in creative work. The author does not work in a vacuum. He has to depend on a publisher. He has sometimes to work with an employer. And after all, the law must have a moral basis. If the author is employed and during the course of his employment he writes an article and if the proprietor owns the copyright, I do not see any injustice in it. The author is already being paid for that work. Of course, if he wants to bring out a book, that is a different thing. These are questions where clash of interests comes—author *vs.* employer author *vs.* publisher etc. And we have to attempt to strike a balance between these varying conflicting interests. The main purpose of this Bill is to guard the interests of the author, but we cannot ignore all those agencies, publishers, employers and other companies which help these authors economically and otherwise in continuing their work of creation. My plea is that we should not do anything which may seem to be in the interests of the author but which will ultimately destroy the rights of the authors themselves. After all, the employer has some interest in engaging the author. He also gives some remuneration to the author. Why should he be denied his right? We have to see these various factors which are interdependent in judging this measure.

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My friend Shri D. C. Sharma has pointed out that the Bill is full of verbosity. I know that it is a very long Bill and sometimes very tiring, but we had to take into account the various factors which are inter-related with regard to creative activities. I shall be very happy if he could point out how we can make it less verbose. I can only assure the House that I shall only be too happy to amend the Bill, when the opportunity arises, and I feel that the Bill needs some amendment. After all, we always learn by experience, and in this particular measure, I am most anxious that the creative genius must be protected. If we find at any stage that it is working against the interests of the creative genius, I shall come forward with an amendment, and I shall request the House to make the necessary changes.

A question has been raised with regard to the licensing of translation. It is true that in the original Bill, since the term of the copyright was 25 years, the translation was coterminous. The Joint Committee made it ten years, and suggested that after a period of ten years, the work would go into public domain. There was a good deal of criticism over this, and I found that there was some force in this criticism. By taking the work into public domain after a period of ten years, the author was completely denied of the right of all royalties and compensations. It is true that in our country we should not allow the authors to create barriers in the path of communication of thoughts and ideas. That would be wrong, particularly in our country, where we have so many languages.

In order that we might go into an integrated community, this kind of social intercourse through interchange and flow of ideas must continue regularly. It would be a great mistake if any author were allowed to say 'Since I am the author, this book could

not be translated'. So, we have made provision for compulsory licence. That is necessary in the interests of the public. That is necessary also in the interests of our society. But, at the same time, let the author have his compensation and royalties. It was with that view that we made that provision.

Sir, you yourself had drawn my attention to some points. But I do wish to submit that in this measure we have attempted to bring the provisions in line with the Berne Convention and the Universal Copyright Convention. Of course, wherever the situation needed some special changes, we did make those changes. But our main aim has been to bring this measure in line with the Berne Convention and the Universal Copyright Convention. We need social intercourse and communication of ideas between one part of the country and another in our own country, but we also need, for the sake of world peace, free flow of ideas and exchange of thoughts between one country and another, for communication of thought must continue if world peace has to be established.

So, we have to look at this measure with that broad perspective. My submission is that by making these changes and by making these amendments we have brought this in line with the Berne Convention and the Universal Copyright Convention.

I hope that the House will accept this Bill.

Mr. Chairman: The question is:

"That the Bill to amend and consolidate the law relating to copyright, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

Mr. Chairman: We shall now take up the clauses. Only one amendment has been tabled so far, and that is to clause 65. There is no amendment to any of the other clauses. So, I shall

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[Mr. Chairman]

put clause 2 to 64 first to the vote of the House.

The question is:

"That clauses 2 to 64 stand part of the Bill".

The motion was adopted.

Clauses 2 to 64 were added to the Bill

Mr. Chairman: Now, I come to clause 65. There is an amendment to this clause, tabled by Shri Goray. But the hon. Member is not present in the House.

The question is:

"That clause 65 stand part of the Bill".

The motion was adopted.

Clause 65 was added to the Bill.

Clauses 66 to 79 were added to the Bill.

Clause I, the Enacting Formula and the Title were added to the Bill.

Dr. K. L. Shrimali: I would like to express my heartfelt gratitude to the House and to the Members who worked with me in the Joint Committee in preparing this measure. I am very grateful to the House for the co-operation and the warm welcome it has offered to us.

I beg to move:

"That the Bill be passed."

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

Mr. Chairman: The House will now stand adjourned and meet again at 11 a.m. tomorrow.

Shri S. M. Banerjee: What about the Central Sales Tax (Amendment) Bill?

Mr. Chairman: That will be coming up tomorrow.

15:58 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, the 28th May, 1957.

belief that they will be exercised properly, and I am convinced that it has not been shown yet that the Government have abused these powers at any time anywhere. These fears are really hypothetical and are not sustained by any facts.

I am sorry I forget to answer one point. I ought to have remembered it. It is necessary to mention it now because it might crop up again. Shri Menon suggested that we should not really give a price, the fixation of which is indicated in the Act, but some price which, according to him, will be a slashed down price. He forgets that we are working under a Constitution which limits the powers of any Government to requisition stocks either by compulsory sale or otherwise except on what the court regards as fair compensation. That is under article 31 of the Constitution. So long as we work under these constitutional limitations, it is not open for us to fix any and every price or the pittance of a price. This amendment was necessitated because certain courts had condemned our law on the ground that the price fixed was arbitrary and that the seller was entitled to fair compensation under the Constitution.

We are proud to say that we are functioning under the rule of law and the executive cannot function arbitrarily. Every action of the executive has to be backed by the authority of law. One thing is quite clear, that through the tangled web of our Constitution one golden thread runs, namely, expropriation by executive fiat is not possible.

Shri Panigrahi (Puri): Has the attention of the hon. Minister been drawn to a report published in the *Anand Bazar Patrika*, a prominent daily of Calcutta, which says that hundreds of maunds of rice and wheat despatched from government godowns in Calcutta for supply to the ration-shops have fallen in the hands of profiteers?

Shri A. K. Sen: I do not know. I am not concerned with food.

Mr. Deputy-Speaker: I shall now put the motion that the Bill be taken into consideration to the vote of the House.

The question is:

"That the Bill further to amend the Essential Commodities Act, 1955 be taken into consideration."

The motion was adopted.

Clauses 2 and 1, the Enacting Formula and the Title were added to the Bill.

Shri A. K. Sen: I beg to move:

"That the Bill be passed".

Mr. Deputy-Speaker: I shall now put the motion to vote.

The question is:

"That the Bill be passed."

The motion was adopted.

RESOLUTION RE: RATIFICATION OF UNIVERSAL COPYRIGHT CONVENTION

The Minister of State in the Ministry of Education and Scientific Research (Dr. K. L. Shrimali): I beg to move:

"This House approves the Universal Copyright Convention and the Protocols thereto as adopted at Geneva on the 6th September, 1952, and recommends that the said Convention and Protocols should be ratified by the Government of India".

I should like to make a few preliminary remarks with regard to the objects of this Convention and some of its special features.

In our world where there is so much of misunderstanding and conflict, if literary, scientific and artistic works are disseminated widely, they

[Dr. K. L. Shrimali]

can create a good deal of understanding.

The important thing is that copyrights of individual authors should be protected. The international systems which are already in force should not be damaged. At the same time, there should be free intercourse of knowledge and of the works of the human mind.

This problem has been agitating different countries for a long period. There have been two main systems as far as copyright is concerned. One is the Berne Convention which was adopted in 1887 and there was a different system which was followed by the American countries. Since several countries felt that this was not a satisfactory arrangement, they were thinking of evolving some system which would enable all the countries to participate and which would enable their works to be disseminated. Therefore, on the 6th September, 1952, an Inter-Governmental Conference was convened under the auspices of the UNESCO and delegations of Governments of 50 countries participated in this Conference.

The main problem was how they could evolve a system under which both the countries which had signed the Berne Convention and the countries which were working under the American system could come together. There was a lot of discussion at the Conference, and ultimately, a Convention has been evolved which enables the Berne countries to participate in the American system and also enables the American countries to participate in the dissemination of knowledge with the Berne countries.

I would like to inform the House that this Convention does not, in any way, supersede the Berne Convention. In fact, the Berne Convention would continue to regulate the copyright relationship between the Berne countries. This was made clear in article 17 and the declaration annexed

thereto. This Convention only establishes relationship between the Berne countries and the non-Berne countries and a bridge has been built which enables knowledge to be transmitted from one country to another.

Another advantage is that the Berne countries, after they ratify this Convention, will not have to enter into separate agreements with non-Berne countries, and the copyright relations between such countries would be regulated by the provisions of the Universal Copyright Convention. Similarly, the non-Berne countries would claim copyright protection in the Berne countries under the Universal Copyright Convention without any special agreement.

The House is aware that India has been a party to the Berne Convention since 1887 and it has so far not established any copyright relationship with non-Berne countries except the United States of America. After we have ratified this Convention we would be reaffirming our relationship with U.S.A. which has already ratified the Convention and it would establish copyright relationship with non-Berne countries in America and elsewhere.

The most important principle which underlies this Convention is that the published works of nationals of any contracting States, works published in each State shall enjoy in each of the contracting States the same protection that that State confers on the works of their nationals published in their own country. The same thing about unpublished works. Unpublished works of nationals of each contracting State shall enjoy in each of the other contracting States the same protection as that State accords to unpublished works of its own nationals.

According to this, Indian works and works of Indian nationals, by virtue of this provision, can claim protection in any non-Berne country and the same protection will be given which is enjoyed by the nationals of that country.

Another great advantage in adopting this Convention is that it does away with some of the formalities for the acquisition of copyright in that territory. The Universal Copyright Convention dispenses with that requirement and provides that it shall be deemed to have been satisfied if a work merely bears the symbol C in a circle accompanied by the name of the copyright and the year of its publication. Hon. Members are aware that all kinds of complicated formalities have to be gone through by the authors before their works can be protected. Now, this Copyright Convention does away with all that formality and all that one has to do is to put the letter 'C' under a circle and the work will get protection in all countries which ratify this Convention.

Therefore, I wish to submit that the ratification of this Convention is a big step forward in India's international copyright relationship.

There has been some delay in ratifying this Convention. The main reason for the delay is that we did not have adequate provisions in the old Copyright Act to ratify this Convention. It was only after the new Act was passed that we are in a position to ratify this Convention.

Hon. Members may also be interested to know the names of the countries which have already ratified the Convention. They are, U.S.A., U.K., Japan, France, Switzerland, Mexico, Germany, Italy, Spain, Argentina and Brazil. These are some of the important countries.

An Hon. Member: How many countries?

Dr. K. L. Shrimali: I am afraid the totals are not given here; but, I will place the list on the Table for the information of hon. Members. I have already given the names of the important countries.

Along with the Convention, there are three protocols. Protocol I pro-

vides for the assimilation of stateless persons and refugees having habitual residence in a State with nationals of that State. India has no problem as regards stateless persons are concerned. But many of the war refugees who have made India their permanent home but have not acquired Indian citizenship would benefit by this.

Protocol II provides protection in accordance with this Convention to works of institutions and other allied agencies. And, Protocol III reserves to State ratifying the Convention the right to notify that this ratification shall not take effect unless a specified country also ratifies the Convention.

We have no present intention of making use of this Protocol. I therefore, commend to the House that this Convention and the Protocols may be ratified. India has always taken a great deal of interest in all those international organisations which help in creating better understanding among the nations. Art, literature and science can be greatly instrumental in creating better understanding among the people and in ratifying this convention, India will be taking another step forward to create better understanding between the different countries. I, therefore, hope that the House will give unanimous support to this Resolution.

Mr. Deputy-Speaker: The Resolution is now before the House for discussion.

Shri D. C. Sharma (Gurdaspur): Sir, I welcome this convention. I agree with the Minister that this House should ratify it. But, I cannot help saying that this convention is just an instance of the way in which our international law is being formed. This is perhaps the first stage and not the final stage for the formation of international law.

[Shri D. C. Sharma]

There is Berne Convention. It is some kind of a regional convention between the U.S.A. and the Latin American countries. Of course, other countries can also subscribe to it. Then, there is this universal convention which lays down that it does not preclude any countries from joining in multilateral or bilateral agreements with other countries in that respect.

It comes to this. We have not yet got one simple comprehensive international law in any field of human endeavour. When that happens, that will be a very happy day for humanity; on that day there will be the disappearance of misunderstanding and diffusion of those noble things which the hon. Minister mentioned. But, it is good as far as it goes though it does not go very far. It is reciprocal. It is not going to be one-sided; it is going to be on a mutual basis. For instance, if I accept the works of a country on copyright, that country can also accept my country's copyright.

Mr. Deputy-Speaker: There is a very wholesome rule in our House that no Member shall pass between the Member who speaks and the Chair. But I have often found this rule being transgressed. I request the hon. Members to see that this is observed very strictly.

Shrimati Ila Palchoudhuri (Nabawip): I am sorry, Sir.

Shri D. C. Sharma: I am also glad (Laughter) Am I not right? Sir, I was submitting that this has quite a wide scope. It applies not only to published work of writers and dramatists and other but also to musical compositions, cinematographic works and paintings. I am glad it applies to cinematographic work, and painting. I am glad it applies to cinematographic works. If this convention is adopted mutually by India and U.S.A., most of the trashy films in India would disappear because most of them are very

poor and cheap imitations of some of these Hollywood films. I hope a very vigilant eye would be kept on it.

This should be applied not only to published works but unpublished works. Sometimes, unpublished works are of greater value than published works. Sometimes, an unpublished work may be epoch-making; it may lie dormant for want of patronage or for some other reasons. I am glad that this is quite wide in its scope.

It is also good that in the contracting stage, we have not to go to these lawyers. These lawyers are very beneficent people. But, law means so many restrictions and procedures and deposits and regulations and what not. The poor author lives in a world of imagination, far away from the world of stark reality, where he does not feel the impact. He feels hampered by all these restrictions and I think those taxing regulations are not going to operate; when he is going to enter a country, these formalities I hope, will be done away with. Of course, if he wants to seek judicial relief, he will have to undergo the judicial process. Now, otherwise, nobody can hamper the copyright convention of any book anyway anywhere he likes.

It is good that the life of the copyright has been fixed for the life of the author and 25 years after his death. I think that is our law.....

Dr. K. L. Shrimali: Fifty years.

Shri D. C. Sharma: Our law is better than that. But, a wholesome provision has been made in regard to translations. But, no provision has been made in regard to abridgements. It is an age of abridgements. You take the most widely circulated papers. There will be abridgements of very costly books. Suppose I publish a book and somebody publishes an abridgement somewhere, the sale of my book is thereby curtailed. In addition to translations, abridgements and condensations should also have

been banned according to the international Convention. That would have given fuller protection. I find that it has not been done. I do not know why.

I have not been able to follow the procedure of these conventions and I have not read through all of them. I think it is a very grave omission. If this convention is again to be revised—as it is, it is a provisional convention—this point should be taken into account. The right of abridgement and the right of condensation should be looked upon as sacrosanct as the right of translation or the right of a book, published or unpublished. I was glad to read the names of the countries which have subscribed to it, and I think it is a good list. But I would like to submit in all humility that the country from which—I say this without any insinuation—our country suffers most is Pakistan. I find that sometimes there are certain books published in India and are available in India at prices, I should say reasonable. But those very books published in Pakistan without the knowledge of the authors, the publishers, the stockists or anybody else, are coming to us from across the Pakistan border and they are cheaper than the prices at which we get them here. Of course, the hon. Minister will say that there is a remedy, that Pakistan will also ratify this convention and then we will be safe. Therefore, the only thing I can do at present is that I should pray to God that Pakistan may also ratify this convention as early as possible, so that the authors, the publishers and the stockists of books in India do not suffer from some kind of an unworthy competition from Pakistan so far as these books are concerned.

Dr. K. L. Shrimali: I would like to inform the hon. Member that Pakistan has already ratified the convention.

Shri D. C. Sharma: I am glad to know that. When did Pakistan ratify it?

Dr. K. L. Shrimali: The instrument was deposited on 28th April, 1954 and it has come into force from 16th September, 1955.

Shri D. C. Sharma: I understand the meaning of ratification. What I am saying applies not to 1854 or 1857, what I am saying applies to the three or four years that we have passed. Anyhow, I hope that after ratifying this convention our Government will be more vigilant, other Governments will also be more vigilant and they will see to it that not much harm is done to anybody.

Therefore, I welcome this convention. I think it gives freedom of creation to the authors, it also gives them freedom of publication, and it also gives freedom of diffusion within the framework of this convention.

Shri Naushir Bharucha (East-Khandesh): Mr. Deputy-Speaker, Sir, I am afraid I have to strike a discordant note. I am absolutely against India ratifying the convention as proposed by the hon. Minister. The point is, it is a great mistake to ratify the convention. Public works of nationals of any contracting States are expected to enjoy in each of the contracting States the same protection that other State accords to the work of its own nationals first published in its own territory.

Let us examine actually in operation what this will mean. It will mean that the convention will be one-sided against India. The reasons are, India is industrially a backward country and requires import of technical knowledge in the shape of technical books. The price of these books is unusually high, and once the convention is ratified such books cannot be mass-produced in India so as to make cheaper editions available to Indian students and public.

There will be a far far greater number of cases for India to produce technical books of foreign authors than other contracting States wanting to produce technical books of Indian authors. May I point out to

[Shri Naushir Bharucha]

this House that in India there are 192 written languages. It is most unlikely that any of the other contracting parties would want to translate works written in any of the 192 languages except English, Hindi or, perhaps, a provincial language. The language difficulty itself affords better protection to 99 per cent of our authors' works than any such convention can afford. The language difficulty is so great that it is most unlikely that any of the Indian authors' works would be plagiarised in foreign countries.

Sir, I very well remember when the Government of India Act 1935 was enacted the British Government gave this country a reciprocity of a type similar to which the convention seeks to give us. They stated in the Act that it was open to any Britisher to start any industry in India and India to afford certain preferential treatment, and Britain undertook to afford to Indian industrialists similar treatment if they started industries in the United Kingdom. For instance, it would be open under such a reciprocity convention for ship-builders of the United Kingdom to start ship-building yards in India, and we could also go to England and start ship-building yards! That was the reciprocity.

Today I ask the hon. Minister in charge of the Bill to tell us how many lakhs of rupees we spend in importing technical books which are so badly needed for industrial growth in India, and will he tell us how much of foreign exchange do our authors earn by selling books in foreign countries? I tell you, this convention is absolutely one-sided. So far as the terminology goes, it seems to be fair and even—"mutual equal protection". But, when I understand that my works of art and my literature are not going to be plagiarised in foreign countries, where is the need for protecting them, and yet I am deprived of the many technical books which India can mass-produce cheaply for the benefit of its poor students; that benefit is completely foregone.

What is it that we are going to gain from this convention, that is what I want to know. My hon. friend, Shri D. C. Sharma, said that the works of our authors are protected. May I know whether there is a rush in foreign countries of copying our books? Who cares for our books? How many books have been plagiarised in foreign countries? I do not think even ten. Secondly, the protection which this convention gives....

Shri P. C. Bose (Dhanbad): Can we copy books of foreign countries in our country as we like?

Shri Naushir Bharucha: That is exactly what I am saying. We must cut off from all such conventions, even possibly the Berne Convention. We must be free to reproduce what we like.

The second point is, it is generally believed that this type of convention affords protection. May I give a concrete instance. Perhaps many hon. Members know and must have in the school days studied P. C. Wren's *Composition*. It is a very well known book. My client has got the copyright. An instance was brought to my notice that the same book was published, exactly reproduced in Allahabad or Patna. He could not trace actually where the book was published. In fact, I wrote to the Superintendents of Police of these two States to try and investigate as to where it was published. They said they could not detect who were the people who plagiarised and reproduced this work. I ask the hon. Members that if even within our own country it is impossible to do this, it is very difficult and almost impossible for the others to do it in other countries. If the police authorities cannot detect plagiarism of our own works within our own country, what hope is there of our knowing whether in Italy or Belgium or for the matter of that in Brazil, some of our author's work is plagiarised and we will be able to check that plagiarism? It is impossible. The protection which this

Convention gives is absolutely illusory. It is not only the question of copyrights but it also raises the case of people who have got trade marks and other things. Probably, the hon. Members do not know that, for instance Tata's soap is being manufactured not in one or two places alone but in a dozen different places and they cannot detect it. The moment the source is known, the little factory is transferred elsewhere and the same trade mark is being infringed. It requires a lot of investigation and litigation before an offender can be brought to book. Therefore, my submission is this. India does not stand to gain anything by contributing to this Convention, and therefore we should not ratify this Convention. Let the hon. Minister produce necessary figures to show what is the number of books of foreign authors that have been imported into India every year and how much our authors earn by the sale of their works abroad. If these figures are shown, the character of reciprocity will stand exposed.

I therefore oppose the resolution.

Shri Sadhan Gupta (Calcutta-East): Mr. Deputy-Speaker, I have to support the ratification of this Convention in spite of certain drawbacks to which I will come later. This Convention represents the successful struggle waged by authors, by artists, scientists and other producers of cultural works for the recognition of their right to appropriate to themselves the profits which may be had from the exploitation of their works. This right had not always been there in the world. Time was when authors found themselves unable to exploit the fruits of their work when their work was pirated, whether they were scientific works or artistic works or musical or literary works. They were pirated and they had no adequate protection. In most countries the law did not protect them from piracy and as a result a struggle went on for securing their rights. This situation was extremely disastrous for the fruition of culture, because once you know that you have no right to get any profit out of the

production of your artistic, scientific or other abilities, the incentive is killed and as a result the production of those things suffers.

14.54 hrs.

[SHRI BARMAN in the Chair.]

That is why every civilised country realised that it was very necessary to give some amount of protection to producers of such works. This protection varied in different countries and when I come to the drawback of this Convention I shall have some reference to make about it. Not that this protection elsewhere was just from all points of view, but then, protection was achieved after a considerable struggle. That is the aspect to realise.

When protection was achieved inside one's own country, another danger made itself felt which was that although the things might be protected and although the authors or other producers of artistic, scientific or cultural works might be protected inside their own country from plagiarisation, yet, their works might be copied in other countries and sold in other countries to the profit of persons who had no part in creating those works, and even sometimes, they used to be imported into those countries, where they are produced. Imports were readily stopped by the laws of the country, but their exploitation for profit in some other country could not be stopped without an understanding as to the mutual application of copyrights in different countries. In order to obviate this difficulty, various conventions were arrived at. There were bilateral agreements besides. For instance, the two major conventions in the world which are extant today are the Berne Convention which comprised a number of countries, and another convention comprising the United States and certain Latin American countries. The object of these conventions was to secure the copyright not only inside the country but also outside the country; to recognise the principle that a person

[Shri-Sadhan Gupta]

who produces something of cultural value, whether it is a work of art or a work of science or a work of music or a work of literature, has the right to be protected and the right to exploit the work for his profit not only inside his own country but outside his country also throughout the world, or, at all events, throughout the countries to which those conventions or those agreements apply. That is a very sensible thing. Wherever something has been produced, no other person who has not contributed to its creation has the right to use that thing for his profit. That was the principle followed in arriving at these conventions.

The great merit of this Universal Copyright Convention is to harmonise those different conventions. Those different conventions literally created a wilderness of copyright laws. It must be so because copyright laws must differ in different countries and, as a result, as different countries were parties to different conventions, all these different countries had different kinds of laws. It so happened then there was a wilderness of copyright laws, and the merit of this Universal Copyright Convention is to harmonise those various conventions. It has harmonised them by leaving the conventions in-tact and only by prescribing certain rules as to how the copyright laws of different countries should apply to one another and how the copyrights of nationals of different countries should be protected in other countries. That is its great merit.

Of course it has its drawbacks, as I said. The greatest drawback which appears to my mind as such, is the protocol which contains a declaration by which countries belonging to the Berne Convention are practically bound down to the Berne Convention. The difficulty about the Berne Convention is, it was arrived at long ago, as you know, in 1887, and ever since then, the ideology of those times

seems to have influenced the Berne Convention a very great deal throughout the States in which it has been revised from time to time. The last revision was in 1948 when it was revised in Brussels. The Berne Convention protects the copyright of an author for 50 years from his death and the parties to the Berne Convention are obliged to give at least that amount of protection to authors of other countries. Of course, it is not binding as regards authors belonging to their own country, but to authors of other countries, the country which is a party to this Convention has to give a protection of at least 50 years after his death or 50 years post mortem as it is called.

15 hrs.

To my mind, it is a very unsatisfactory state of affairs. It is true that copyright was intended originally to protect the right of the authors from undue exploitation by unscrupulous elements. But when we have secured that right, we must also look to another aspect of the matter, the other aspect of the matter being the interest of the public also in the dissemination of cultural or artistic works. It is quite conceivable that an author should be allowed to exploit his work reasonably for his own profit. But after that, the public also must have a chance of participating in the work which the author has produced. After the author has had his reasonable profits out of it, the public also must have its own share of exploiting it for its own cultural advancement.

A fifty-year post mortem guarantee of the author's right is unfortunately a thing which militates against the interests of the public at large. If an author produces his work at an early age, it is conceivable that he will have reaped quite enough of the profit by the time of his death. You can allow some time after his death, so that for the lifetime of his children, his immediate posterity, the work

may not be used to the profit of another. But when the author is dead and 50 years later, when his children must be dead and even the generation of his grand-children must be about to be extinct, even then the profit remains or is supposed to remain with the author. Why I say 'supposed to remain' is because actually it is worse; because it does not remain with the author, it remains with the publisher in most cases. Even if it remains with the author, I think it is encouraging idleness to far into the author's posterity if we give a fifty-year *post mortem* guarantee.

What I would suggest, and what I had suggested during the discussion on the Copyright Act, is that we should adopt a formula by which the author should have full right to exploit his work during his lifetime; his children, his posterity; should enjoy security out of the profits of the copyright, but let it stop there. Afterwards, let it go into the public domain and the public should be allowed the freedom to reproduce it on a competitive basis, thereby bringing down the price of the work. This is the balance that needs to be struck. I had suggested that a formula may be evolved by which, for example, it may be provided that if an author lives to be more 90 years old, then the copyright should subsist till his lifetime and if the author lives to be less than 90 years old, then the copyright should subsist till the time when the author, if living, would have been 90 it might subsist for a minimum period of 20 years in either event.

If we provide that, we would be guaranteeing the author his right of exploitation during his lifetime and the right of the children of the author to enjoy security out of the profits of the copyright. By approving the Protocol about the Berne Convention, I am afraid we might be tied down to that rigid rule of 50 years *post mortem*, which is neither satisfactory from the public point of view nor even scientific.

For example, if an author produces a book at the age of, say, 70 and if he lives for 10 years more, the book will run only for 60 years. But if he produces a good book at 25 and lives till 80, then it will have a life of over a hundred years. That is most unscientific whereas the formula I have suggested would have been scientific and would have introduced more or less a uniform system of copyright in all cases after the author's death. That is the draw back, but in spite of that drawback, I would still support the ratification of the Convention, because we must have some universal law, if possible, for regulating the copyrights in different countries.

I do not look at it from the point of view of profit or loss to our country. Copyright has been regarded as a very sacred thing on an international scale today. Just because an author happens to be the resident of another country, we cannot claim the right of pirating his work, because we are residents of a different country. I can quite appreciate Mr. Bharucha's anxiety to enable our country to profit out of technical books and so forth by reproducing them at cheap rates. But there is no necessity of sacrificing our reputation as a nation of principles, of sacrificing our self-respect, for this little advantage which we might receive. It may be that technical books are highly priced, but I think if we adhere to decent standards, we have to recognise that we have to give the author some right to exploit his copyright. What that right is may be a matter of dispute, but some right must be there and if possible, there should be some system by which that right should be recognised throughout the world.

Apart from this stipulation about the Berne Convention, there is no other bar towards revising our copyright rules, towards granting certain concessions or for that matter towards making the copyright law more stringent by reducing the period of copyright and so forth. Therefore, from

[Shri Sadhan Gupta]

this point of view, on account of the principles involved, on account of the necessity to adhere to a decent code of rules as regards recognition of copyright, I think this Convention should be ratified and I would support the motion for the ratification of this Convention.

श्री श्रीनारायण दास (दरभंगा) :

सभापति महोदय, अभी मन्त्री महोदय ने जो विश्वव्यापी कापीराइट अनुसमर्थन के बारे में संकल्प उपस्थित किया है, उसका समर्थन करने के लिए मैं खड़ा हुआ हूँ। ऐसा करते हुए मैं यह कहना चाहता हूँ कि जिस प्रकार किसी राष्ट्र के लिये अपने देश के लेखकों का अथवा दूसरी प्रकार की कलाओं के निर्माताओं के कापीराइट की रक्षा करना जरूरी है उसी तरह से उस राष्ट्र के लिये यह भी जरूरी होना चाहिये कि वह दूसरे राष्ट्र के लेखकों एवं कलाकारों के कापीराइट सम्बन्धी हकों की रक्षा करे। सर्व साधारण जो उन चीजों का उपयोग करते हैं या उनका प्रकाशन मुनाफे के लिए करते हैं, चाहे, लेख हों, चाहे विज्ञान सम्बन्धी निबन्ध हों, चाहे साहित्यिक कृतियाँ हों, चाहे उद्युक्त सम्बन्ध दूसरी कलाओं से हो, वे ऐसे व्यक्तियों द्वारा निर्माण की जाती हैं जो अपने मस्तिष्क से समाजोपयोगी चीजों का निर्माण करना जानते हैं। हमारा यह कर्तव्य है कि हम उनके अधिकारों की उसी तरह से रक्षा करें जिस तरह कि उनकी रक्षा राष्ट्रीय क्षेत्र में होती है।

अभी एक माननीय सदस्य ने कहा है कि हिन्दुस्तान को इस व्यवस्था (कन्वेंशन) के अनुसमर्थन से कुछ भी फायदा होने वाला नहीं है और हिन्दुस्तान के अन्दर ऐसी कोई कला की कृतियाँ नहीं हैं जिनका प्रकाशन दूसरे देशों में हुआ हो और उससे जो फायदा होने वाला हो वह इस देश के नागरिकों को मिले। एक जमाना था जब प्रायः सभी लेखक इस सिद्धान्त को हृदयंगम करके कला का

निर्माण करते थे कि "कला कला के लिए है" तथा उनके दिल में यह खयाल नहीं होता था कि वे अपनी कलाकृति द्वारा कोई लाभ प्राप्त करेंगे। लेकिन आज ऐसी सामाजिक व्यवस्था हो गई है, चाहे वह हमारे देश में हो चाहे दूसरे देशों में हो, जिसके अन्तर्गत हर लेखक को अपना जीवन निर्वाह का साधन जुटाना पड़ता है और जीवन निर्वाह करने के लिए साधनों की तलाश करनी पड़ती है। जितने भी विद्वान् हैं, जितने भी लेखक हैं, यदि उनके अधिकारों तथा उनके उत्तराधिकारियों के अधिकारों की रक्षा की समुचित व्यवस्था न हो तो फिर साहित्य, विज्ञान एवं कला-निर्माण के लिये कोई प्रोत्साहन नहीं रह जायगा, इसलिए यह आवश्यक हो जाता है कि अच्छी अच्छी कला की कृतियों के निर्माण के लिए, अच्छे अच्छे लेखों तथा अच्छे अच्छे ग्रन्थों के निर्माण के लिए उनको प्रोत्साहन दिया जाए और जिस तरह से राष्ट्रीय कापी राइट कानून बनाया जाता है और देश के अन्दर रहने वाले जो लोग हैं, उनके हितों की रक्षा की जाती है तथा वे जिन कृतियों का निर्माण करते हैं, जिन साहित्यिक या वैज्ञानिक अथवा दूसरी प्रकार की पुस्तकें लिखी हैं, उनके बारे में उनके हकों की हिफाजत की जाती है उसी तरह से मैं समझता हूँ कि अन्तर्राष्ट्रीयक्षेत्र में भी उनकी हिफाजत होनी चाहिए। इसी तरह से संगीत तथा ड्रामा सम्बन्धी यदि कोई ग्रन्थ लिखते हैं उनकी भी हिफाजत होनी चाहिये। मैं समझता हूँ कि यह कोई व्यापारिक समझौता नहीं है और हमें अपने देश के नफे को तथा दूसरे देशों को होने वाले नफे को नहीं देखना चाहिए। हमें मूल्यवान् ग्रन्थों का तथा उनका निर्माण करने वाले लेखकों के हकों का संरक्षण करना है। इससे राष्ट्र की सीमा का खयाल नहीं करना है। इसलिए मैं समझता हूँ कि जो माननीय सदस्य ने नफे की बात कही है, उसमें कुछ तथ्य नहीं है। बहुत भारत की ऐसी कृतियाँ भी हैं जिनका अनु-

वाद या जिनका प्रकाशन दूसरे देशों में हुआ हो और यदि नहीं भी हुआ है तो भी नैतिकता का यह तकाजा है, अन्तर्राष्ट्रीय समझौते का यह तकाजा है कि हम ऐसे लेखकों के हकों की हिफाजत करें और उसी तरह से करें जिस तरह कि उस लेखक के अधिकारों की रक्षा उसके अपने देश में होती है। यह व्यवस्था जिसका कि निर्माण १९५२ में हुआ था, इसकी पुष्टि करना बहुत जरूरी है और मैं चाहता हूं कि सरकार को अधिकार दे दिया जाए कि वह इसका जल्दी से जल्दी अनुसमर्थन कर दे।

सभापति महोदय, इस व्यवस्था में जहां तक मैं देख पाया हूं, इसमें लिखा है कि लेखक के मरने के बाद कम से कम २५ बरस तक कापीराइट का अधिकार जरूर होनी चाहिए तथा जिस देश में इस तरह की व्यवस्था होगी वह देश इसमें शामिल हो सकते हैं। हमारे देश में जो हमने कापीराइट बिल पास किया है, उसके अन्दर हमने ५० बरस लेखक के जीवनांत की बात कह रखी है। इसलिए मैं समझता हूं कि हमने बहुत उदारता से इस बात को किया है। अभी तक जिस कन्वेंशन से, जिस व्यवस्था से हमारा सम्बन्ध था उसमें अमरीका या इंग्लैंड आदि देश सम्मिलित नहीं हुए थे। मालूम नहीं इसका क्या कारण है तथा किस बात से उनको आपत्ति थी। लेकिन देर से ही सही, एक विश्वव्यापी व्यवस्था का निर्माण होने जा रहा है और उसमें जितने अधिक से अधिक देश शामिल हो गए हैं या शामिल होने वाले हैं, उसका स्वागत ही किया जा सकता है। यह एक बहुत ही हर्ष का विषय है और मेरा खयाल है कि इस व्यवस्था के लागू हो जाने के बाद हमारे देश के या दूसरे देशों के जो कलाकार हैं उनके हकों की हिफाजत सहयोगी देशों में उसी प्रकार से होगी जिस तरह से स्थानीय लेखकों की हिफाजत उस देश में होती है।

चूंकि समय कम है, इसलिए मैं और अधिक न कहते हुए यह जो संकल्प हमारे

सामने उपस्थित किया गया है, इसका समर्थन करता हूं।

Dr. K. L. Shrimali: I should like to thank the hon. Members who have given their support. In fact the whole House has generally supported except the hon. Mr. Barucha.

With regard to the points that have been raised by my friend, Mr. Barucha, I should like to say that in international matters India always want to maintain certain moral standards. It is true that India is backward at present technologically. But I do not agree that culturally India has been backward at any time. It is true that at present we have to import technical books. But India has a rich cultural heritage. Due to foreign domination, culture of India was not known outside. In the fields of philosophy, art, literature, in fact in every field, India has made great contribution and we have every reason to be proud of that contribution.

Even in the present times we have produced great intellectual giants like Dr. Radhakrishnan, Rabindranath Tagore, Arabinido Ghosh and Mahatma Gandhi, whose books are being published in large numbers in various foreign countries. It would, therefore, be wrong to under-rate or underestimate the contribution which our own people are making in the field of art and literature.

So far as the publication of technological books are concerned, even though it will be a disadvantage for some time, we have no intention of indulging in piracy or using the works of authors of foreign countries by any unfair means. In this connection, I would like to inform the hon. Members that India is already bound by agreement with the English-speaking countries—by the Berne Convention. We have already some agreement with the United States. So all this convention is doing is to re-affirm the existing relationship which India has with the United States.

With regard to the point raised by Mr. Gupta, this matter, as he is

[Dr. K. L. Shrimali]

aware, was debated thoroughly in the Select Committee and it was after a great deal of discussion and consideration—I know that he was not agreeable to this; but it was after a great deal of thought and discussion that it was decided—that we came to the conclusion that the authors should enjoy the copyright for the life-time and 50 years after the death of the author.

Shri Sadhan Gupta: It was decided because of the Berne Convention.

Dr. K. L. Shrimali: The Berne Convention also has been approved by Parliament.

It was after a great deal of deliberation that we decided to have fifty years after the life of the author. I am afraid it will not be possible to reopen that question at this stage. India has always welcomed entering into international agreements which bring about greater amity and understanding among the peoples of the world. This is one of those measures which should be welcomed by this country and by this House because it gives us an opportunity to disseminate our works of creation to foreign countries and gives us an opportunity to receive works of foreign authors in this country. It makes intellectual intercourse easier, and it is through these intellectual intercourses that greater understanding can be developed in the world. I am looking at this Convention from this point of view. I would, therefore, appeal to the House to approve of this Resolution.

Mr. Chairman: I shall now put the Resolution to the House.

The question is :

“This House approves the Universal Copyright Convention and the Protocols thereto as adopted at Geneva on the 6th September 1952, and recommends that

the said Convention and protocols should be ratified by the Government of India”.

The Resolution was adopted.

AIR CRASH IN NEFA AREA

Shrimati Renu Chakravartty (Basirhat): Mr. Chairman, Sir, the subject of aviation has been of intense interest to this House not only because in the first Parliament we took upon ourselves the task of nationalising the airlines and making the nation responsible for this very important public utility service, but also because the private operators were functioning in a way that was open to serious objection from the point of view of by-passing many of our safety regulations, over-working the personnel and in many ways manipulating the rules laid down by the Government to ensure correct flying standards and also because of the fact that almost all these companies were run at a loss and but for Government subsidies they could not operate.

Today the question as to whether there should be private operators or not does not arise, but when we come to the question of airlines various arguments like the difficulty of operating in certain areas are brought forward. Yet today nobody will debate that in places where there are no railway tracks some private companies should open a railway track. Yet in our nationalisation Bill we did leave a loophole and we did allow the existence of non-schedule operators. But I do not want Government to take shelter behind this because we have from time to time to review the workings as they come before us and that is why I have brought forward this particular discussion.

Now, Sir, unfortunately, a correct decision to nationalise the airlines has been brought to disrepute by many of the sins of the Indian Airlines Corporation and its management. The top-heaviness, the heavy expenditure and other things have been debated

The House re-assembled after lunch at two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

UNIVERSAL COPYRIGHT CON- VENTION

THE MINISTER OF STATE IN THE MINISTRY OF EDUCATION AND SCIENTIFIC RESEARCH (DR. K. L. SHRIMALI): Sir, I beg to move the following Resolution :

"This House approves the Universal Copyright Convention and the Protocols thereto as adopted at Geneva on the 6th September, 1952, and recommends that the said Convention and Protocols be ratified by the Government of India."

Sir, in moving this Resolution I should briefly like to say a few words with regard to its origin and its special features. The House is probably aware that there has been a desire on the part of all the countries to have some kind of universal convention under which all the countries might come together and disseminate works of art, literature and science. We are living in a world where there is a good deal of misunderstanding and conflict, and one of the ways in which this misunderstanding and conflict can be removed is to disseminate knowledge of works of art, literature and science more widely. The more the dissemination of knowledge, the less the chances of misunderstanding between one country and another. It was with that view that the Berne Convention was adopted as early as 1887, but that did not go very far, because a large number of countries, American and Latin American countries, were not signatories to this Convention. For the last twenty years continuous efforts were being made to bring all the countries together and at last at an inter-Governmental Conference which was convened under the auspices of the UNESCO in 1952, the Universal Copyright Convention was adopted. My feeling is that this is a step forward for knitting the world together. The difficulty in the past has been that there was no connecting link between the

Berne countries and the American and Latin American countries, and the Berne countries, if they wanted to enter into any agreement with the non-Berne countries, they had to sign a special agreement, which led to lots of difficulties. With the adoption of this Convention, the communication and dissemination of knowledge of works of art, literature, etc. between the Berne countries and American countries becomes easy.

I should like to inform the House that it is not the function of the Universal Copyright Convention to supersede the Berne Convention. In fact, the countries which are signatories to the Berne Convention will continue to be guided by the Berne Convention. The only thing that this Convention does is to establish a connection, a relationship between the Berne countries and the non-Berne countries. It serves as a kind of bridge between these two blocs. Another advantage is that once we ratify this Convention, we do not have to enter into separate agreements with non-Berne countries. The copyright relationship between us and these other countries will be guided by the provisions of the Universal Copyright Convention. Similarly, non-Berne countries will claim protection in the Berne countries under the Universal Copyright Convention without any special agreement.

Sir, the House is aware that India was a signatory to the Berne Convention, and since 1887 we had to enter into special agreements with the U.S.A. for establishing copyright relationship. As far as India is concerned, by ratifying this convention, there is no substantial change; we only reaffirm our relationship with the U.S.A. Of course, we are already bound by the Berne Convention, but the advantage is that we enter into relationship with non-Berne countries also. The fundamental principle which governs this Convention is that our authors, after the ratification of this Convention will get protection in foreign countries in the same way in

[Dr. K. L. Shrimali]
 which the nationals of those countries will get protection, both for published and unpublished works. Similarly we shall have to give protection to the foreign authors the same kind of protection as we give to our own authors in this country. That is the main advantage in ratifying this Convention. Another advantage is that, as hon. Members are aware, in some of the countries there are various kinds of formalities through which people have to go through, before they can acquire copyright. Now, according to this Convention, if we ratify this Convention, all these formalities are dispensed with, and all that authors will have to do is to mark the symbol "C" in a circle which will be accompanied by the name of the copyright proprietor and the year of publication. Indian works hereafter need not go through all these complicated formalities which create all kinds of difficulties for the authors particularly in foreign countries. The matter is very simple. All that they have to do is to mark "C" and put a circle round it and put the name of the copyright proprietor and the year of publication, and they get their copyright.

Now, though this Convention was passed as early as 1952, it was not possible for us to ratify it, as under the previous Act we could not have put this Convention into operation. It was only after the Copyright Act was passed that we could implement the ratification of this Convention, and it is now time that we ratify this Convention.

SHRI H. P. SAKSENA (Uttar Pradesh): I could not understand why we could not do it earlier.

DR. K. L. SHRIMALI: There was no provision under the previous Act.

SHRI H. P. SAKSENA: How have you got this provision now?

DR. K. L. SHRIMALI: We have made a provision in the new Act for ratifying international agreements.

SHRI H. P. SAKSENA: I see. Sir, some of the countries which have already ratified the Convention are U.S.A., U.K., Japan, France, Switzerland, Mexico, Germany, Italy, Spain, Argentina and Brazil. Countries like Soviet Russia and some others have not yet signed the Convention and ratified it but I hope that in course of time they would also come under this agreement. There are three protocols, one which provides for the assimilation of State-less personnel and refugees having habitual residence in a State. Of course there is no problem for India but we have a few people who are refugees, who have made India as a permanent home and have not yet acquired Indian citizenship. Now, by adopting that protocols, one which provides for the vantage. Protocol 2 is aimed at extending protection in accordance with the Convention to all works of the United Nations and the specialised agencies associated with it like the UNESCO etc. Protocol 3 reserves to the State ratifying the Convention the right to notify that the ratification shall not take effect unless a specified country also ratified the convention. We have no intention at present to notify any country but I would recommend to the House that we may gratify this Convention. India has always taken a leading part in all such agreements which bring the world together. It is one of those conventions which aims at dissemination of knowledge, which aims to cut down the barriers which exist between one country and another, which aims at creating better world understanding through dissemination of knowledge through art and science and it is only proper that the Convention to which we were signatories may now be ratified by this House. I therefore request the House to adopt this Resolution.

MR. DEPUTY CHAIRMAN: Motion moved:

"That this House approves the Universal Copyright Convention and the Protocols thereto as adopted at Geneva on the 6th September, 1952

and recommends that the said Convention and Protocols be ratified by the Government of India."

DR. NIHAR RANJAN RAY: (West Bengal): Mr. Deputy Chairman, it is a formal proposal that has been placed before us and I don't think there is anybody in this House who would oppose recommendation for ratification of this very important Convention.

These Conventions have a history that goes back to at least 60 or 70 years, if not more, but the present Convention, the Universal Copyright Convention, is much more comprehensive than all the previous Conventions in this regard. I have not very much to say about this Convention. Dr. Shrimali has explained the objectives of this Convention and the benefits that would accrue from it. It is a very healthy sign of the times that despite occasional joltings, we do certain things that go to the cohesion of the various nation-States of the world. There is one important step in that direction. Especially in matters of culture, we are trying to get nearer to each other and bring ourselves under obligations that are common and reciprocal. I have only one or two words to offer by way of comments.

It is a pity that two important segments of the world are not yet signatories to this pact, the Soviet Bloc and China, and so long as these two very important areas of the world do not come within this Convention, cannot expect the best out of it. The importance of this Convention is all the more so because India will very shortly be participating in one of the major projects initiated by the Unesco, the project of East-West cultural exchange relations, a proposal that was accepted at the last General Conference of the Unesco held at New Delhi. This programme envisages that translations of some of the most important works from Asian and African countries will be exchanged with similar translations of works of Western origin for our mutual benefit. We are

going to participate in that major project and this Convention will be a very useful safeguard in that respect. As years roll on, more and more Indian authors are being translated in various languages of the world and these books are becoming more and more popular. It is only mete and proper that our authors get the copyright protection—which they will now do at home on the strength of the Act that we passed in May last,—abroad in those countries that are contracting parties on the strength of this Convention.

It is a pity that this Convention has been adopted in three major languages, English, French and Spanish and three other languages have also been recognised for the dissemination of the text of this Convention. These languages are, I believe, German, Italian and Portuguese. I regret somewhat that we could not have our national language included in this list. In fact whenever the question comes up for recording and propagating international contracts, the claim of the Indian national language is not recognised. I do not know whether the case is not pressed or whether it just goes by default.

On the other hand it is a matter of congratulation that India is a member of the 12-Member International Committee, the first committee which will be set up in respect of this Convention.

I agree with Dr. Shrimali when he says, that by and by some of the countries that are not yet signatories to this Convention will eventually come within this Convention and be signatories to this and also achieve the ratification that is necessary for the purpose. It is the most obvious thing to do, and I hope, this House will recommend its ratification without any demand.

DR. RAGHUBIR: SINH (Madhya Pradesh): Mr. Deputy Chairman, the Motion for ratification has not come a day too soon. Those of us who had to work on the Select Committee

[Dr. Raghubir sinh.]

on the Copyright Bill have had to scan the provisions of this Convention and we benefited a great deal by studying the provisions of this Convention and we also tried to secure the best advantage of our language writers in this respect. Now, Sir, today by ratifying this Convention, it is obviously clear that we are undertaking a very important international commitment. It has been said, I believe, in the other House that in this respect, with its long and ancient cultural heritage, its great past literature in the ancient languages, India will have much to give and, therefore, India stands to gain. But, Sir, one aspect of the thing which is not generally probably realised is that today the Indian languages are on the eve of a very major development. We have accepted Hindi as our national language; the regional languages as well are going to be developed in a very large before longway. The major problem today is of technical books and, as such, we will have very much to take from as many as three countries, from the literature of three countries who are not parties to the Berne Convention but have joined the Universal Copyright Convention, namely, the German Federal Republic, Japan and the United States of America. We have entered into certain relationship with the United States of America and with this ratification we regularise the same. But it also brings us closer to these two other countries from where we have got much to translate and I am hoping, Sir, that the ratification of this Convention will open out a new vista and will ease the process by which we will be able to translate and take much of their technical literature for enriching our literature thus providing much technical know-how for our people in the regional and the national language. As such, I strongly support the Motion moved by my hon. friend. Dr. Shrimali, but, Sir, there is one thing on which I would like the hon. Minister to give an explanation to this House and that is this. He has pointed out that this could not be

ratified before the Copyright Bill was passed. Now, Sir, the Copyright Bill was passed on May 27, 1957. Every Ministry knows that at the beginning of the Session especially, this House has not much work to do. I hope, Sir, that the Ministries will awake and will get rid of their lethargy and that such Motions which should not be hurried through at the fag end of the Session will be brought forward early in the Session. Sufficient notice should have been given to us. There is another important point. Notice of this Motion was given only two days back. Since the passing of the Copyright Bill, this House has got as many as twenty-five new Members. So, the notice should have been given much earlier so that many eminent men, men like Shri Purushotham Das Tandon who have lately come into the House, would have been able to give us their views on this vital matter of national as well as international importance.

This is all that I had to say and I hope the hon. Minister will be able to throw some light on this, Sir.

SHRI H. P. SAKSENA: Mr. Deputy Chairman, consistently with the ancient traditions of our ancient land, I have no hesitation in supporting the ratification proposal put forward by my hon. friend, Dr. Shrimali. Ours has been a land of the Universities of Nalanda and Ujjain and the land of rishis and saints. Our main purpose in life has been not only the dissemination of knowledge connected with arts, science and literature but we have also been the pioneers of the diffusion of knowledge in various aspects of human life. We have been the torch bearers of peace in all ages and have avoided and despised strife and war.

As was pointed out by my friend, Dr. Ray, it is very surprising that our ancient language, Sanskrit—or, call it by any name you please, you may also call it Hindi—does not find a place in the three languages that

he mentioned and which have been adopted as the languages of ratification like English, French and Spanish. I would very much commend this proposal to the hon. Dr. Shrimali and request him to exert his level best at the opportune time to get our language also recognised as one of the languages of the protocol. So far as this ratification is concerned, I repeat that it should have come earlier but, since it has been delayed, it is high time that we ratify it without any delay. Sir, we not only spread out education to the rest of the world but also made the world of our times, of our ages and, in all old periods of our history, civilisation-minded. We are the pioneers of all that goes with the term "ancient" and, in fairness to the rest of the world, I am glad that that title of ours is universally recognised and I hope that we will continue to prove ourselves worthy of that title.

SHRI BHUPESH GUPTA (West Bengal): Mr. Deputy Chairman, there is hardly anything to say on this Motion at length because the proposition which is before us is a very simple one but, in this connection, I would like to make a few observations. Now, Sir, as far as the high—not high but contracting—parties to this Convention are concerned, it has been pointed out by Prof. Ray that a number of countries are not included and yet, the works of art, science and literature of those countries are coming out in large numbers and our contacts with those countries have also developed in the course of the past few years. It is of some importance, therefore, to come to some kind of understanding with China, the Soviet Union and the rest of the Socialist world as to where we stand with regard to this matter. I hope, Sir, that even if it is not possible to come to an understanding through agencies like the UNESCO—the international agencies—it might be possible for our Government to enter into agreements and understandings on reciprocal basis mutually through consultations and

discussions between the parties directly concerned. Therefore, Sir, this is a matter for the Government to consider now. The other point that I would like to make here is the approach in regard to such matters. Copyright, as we know, is something under cover of which it is not often the writers and authors who benefit but it is the publishers who benefit. This is what has been happening in our own country and it is not uncommon that many of the authors who have produced very great works of art or science do not enjoy the benefits of their work, I am speaking economically. The protection that is given to them becomes a fiction as far as they are concerned. These rights are sold like any other commodity and the benefits accrue to the publishers who monopolise these publications. In England, for instance, today there has developed big publishing houses which, shall we say, deal in this kind of thing with a view not so much as giving benefit to the authors but to enrich of fetch more profits for themselves. That is how things are going on and, in our own country too, the same thing is happening. Obviously, in an international Convention of this kind, it is not possible to deal in detail with the national laws or the Municipal Laws, as it is called, and we know that in a reciprocal agreement of this nature, we do what we would expect others to do in their own world, that is to say, the treatment is on the same footing in various countries.

I give protection to an author in my land expecting that our authors would be given the same treatment as they are enjoying in another country. That is how reciprocal arrangements are arrived at but that does not often take into account the actual Municipal Laws prevailing in the various countries. What an Indian author would get by way of protection, shall we say, in the U.K. is very much dependent on the protection that is given to the authors in the U.K. itself by their own Gov-

[Shri Bhupesh Gupta.]

ernment. Therefore, it is essential that we have a better idea of the existing laws in various countries with regard to this matter as otherwise we would not be in a position exactly to know what we are giving and what we are going to get. That is the point. Some questions of privileges are also involved in a matter like this. It is understandable that the author or those who immediately follow him in his family, sons and daughters, should be entitled to the economic benefits of the work of art or the work of science, but this should not be carried too far. Sometimes, there is a tendency to take it too far, say fifty years post mortem. Now, it might be that an author produces a book at the age of 25 years, lives for another fifty years or sixty years. During that period, he would be getting protection and, even after his death, the members of his family would count on this protection and will be getting them, shall we say, for another fifty years. This protection would thus run to a century or so. Sometimes, not in all cases, such a contingency is conceivable. Some kind of vested interest begins to develop at a later stage which is something which may not be always helpful to the dissemination of culture, to the cultural dissemination and intercourse between the various countries. This should develop by mutual contacts in the field of literature, arts and technology. Barriers will arise under the new Copyright laws of various countries. That is one factor one has to take into account because it is not merely by signing this convention that we develop cultural relations with other countries. Retification of this Convention will not take us very far; it undoubtedly creates better understanding, mutual accord and creates a climate where such cultural contacts could be developed but what is of great importance here is how we treat the literature of other countries and how our literature and works of art and science are treated in other countries. That is very important. Therefore,

Sir, let us not have exaggerated ideas as to the importance of this convention. I am not at all denying the importance of it, but sometimes, in speeches it is made out as if these things by themselves would take us very far. Such convention existed for a long time; I think from the end of the 19th century such conventions began to develop with regard to very many points of contacts between the nation States and they have not taken us very far, as we know. What is important today is to develop goodwill in practical life and contacts between the various countries. In that context, naturally, translation work is of great importance. Our literary works should be translated in other countries and we should translate the literary work of other countries. As you know, in many countries, there are private authors—authors are not always private but they attach to themselves a kind of proprietary rights—and translation becomes very difficult. Questions of royalty and other things come in and sometimes they are carried to the extreme so much so that one does not find the situation very favourable for translating or developing it that way. This is a point one should take into account. Personally, if you ask me, works of great literary men like Rabindranath Tagore, are not considered by me to be the property of one individual or one individual institution at all. They are the assets of mankind; they are the treasure of mankind. (*Time bell rings*). Such work should naturally be kept apart; even contemporary works, either from the point of literature or from the point of science, should be similarly treated. What I would like to see is that there should be free inter-flow of such work without barriers, without restrictions, without being inhibited too much by personal or private right. Although I am all in favour of extending to the authors and their immediate successors such right as is possible from the point of view of economics, I would like to press upon the House that the protection to the various authors lies not so much in giving this kind of

right but in other activities and policies of the Government. I do not wish to go into that aspect at this stage. All that I would like to stress upon the House and emphasise in this context is that today, more than ever, it is essential that there develops contacts between the various countries in the field of science, literature and art and thereby understanding is developed enriching civilisation as a whole. Whereas I would like the authors to be given every possible protection, at the same time, I should also be interested in ensuring that because of certain private rights, because of certain narrow private interests, because of certain narrow prejudices from the point of view of an individual or a single Nation state, we do not deny all this free flow of culture, flow of civilisation which is carried in these works of art, literature and science. That is how I would view the matter and I hope that the Government would take these points into account and in its future dealings over such matters with other countries it should keep in view the urgency and importance in the world of today of having easy and free contacts and intercourse in the field of culture art and science between the countries of the world.

SHRI KISHEN CHAND (Andhra Pradesh): Mr. Deputy Chairman, the Government is more or less committed to this Convention and probably this House will agree to it. But when we were discussing the Copyright Bill, I drew the attention of the hon. Minister to the fact that the Indian languages are developing and that we want the development of Indian languages. Many Universities are thinking of adopting the Indian languages as the medium of instruction. Sir, scientific books, medical books and technical books are being published in large numbers in foreign countries and some time to come we shall have to go on translating these books if we want our local languages to be adopted as medium of instruction in the universities. I would like to know from the hon. Minister whether, if he

signs this Convention, it will be possible for Indian authors to translate books on scientific, technical and medical subjects written in foreign languages. You know, Sir, that often foreign authors are not interested in the translation of their works if they feel that the copyright on the translation will not bring them substantial amount of money and if they are not interested they may not give permission for translation of their works, or they may insist upon a minimum guarantee to be paid to them for translating their works. In either case the question of enriching our languages with translations of technical books will be retarded, but it is most essential that we translate such works. Now, in the Osmania University we tried this experiment of writing of original works and naturally that work was entrusted to the professors who were lecturing in the University. The result was that often books written by the professors were not of the calibre or quality that we have been obtaining by translating foreign books. If by this Convention we stop or discourage or make the translation of books of foreign authors expensive, the result will be that our authors will be writing on modern scientific and technical subjects in the local languages and you know the value of a book is determined by its sales in competition. In foreign countries a very large number of books are written on any one particular subject. I know even on one particular branch of, say, Physics or Chemistry hundreds of books will be written while in our country if we do not go in for translation but only go in for writing of original works probably there will be only one or two books on any particular branch of that subject written by an author selected by a committee appointed by Government. The result will be that we will not have the same calibre of books in our languages as would be easily obtained by translating foreign books. So, is it possible for us under this Convention to get special concession about translations? In the Osmania University the Government had adopted the

[Shri Kishen Chand.]

rule of giving ten per cent. royalty on the sale price of every book that was sold. I would commend to the hon. Minister that some similar provision or a qualifying clause may be added to this Copyright Convention when we agree to it. We may agree to the Convention but we may also ask for some special treatment with regard to translation in local languages. Likewise we may give a similar concession to them for translation of books which are copyrighted in our country. If it is on reciprocal basis there should be no grievance and no cause for hardship. Sir, I have spoken about books only. About other works of art, the question does not arise and I fully support this motion.

DR. NIHAR RANJAN RAY: This is the usual practice, I believe. Even if this Convention was not there, the usual practice is to give a kind of royalty to the original author in whichever country the book is published. That has always been the practice.

SHRI KISHEN CHAND: According to this Convention, it is not correct. We may adopt any practice. If we agree to a Convention, sign it and get it passed by Parliament, it is our bounden duty to abide by it. To agree to this Convention and then keep some mental reservation saying that there is a practice of translating the books and giving them 10 per cent., is not correct. That is not the right procedure. And I would request the hon. Minister to make that alteration in the Convention if possible.

DR. K. L. SHRIMALI: Sir, I should like to thank the hon. Members for the support which they have given to this Resolution. As I said in my opening remarks this Resolution is a step forward in creating better understanding between the different countries and since India has always welcomed such opportunities I am glad that the House has given its support to this Resolution.

With regard to the question which was raised about Indian languages, as to why Indian languages are not being recognised for international purposes, normally, the practice, as far as I understand, is that in International Conventions only those languages are considered which are spoken in more than one country. I do hope that, as time passes, as we develop our languages, which we are bound to do, and as more and more creative energy is released in our own country, our languages also will receive due recognition. But I must say that we have to make an effort in this direction and effort can be made by those people who through their creative work make a contribution to the languages and enrich them.

Sir, my hon. friend, Mr. Bhupesh Gupta, spoke at length about the necessity of limiting the duration of copyright. That point was so very thoroughly considered by the Select Committee when drafting our own Act. As he is aware, the Government had originally limited that right but later on the period was increased to 50 years in the interest of authors. I am afraid that it will not be possible to reopen that question at this stage.

My friend, Shri Kishen Chand, asked me if there was provision for translation of works. In fact, by adopting this Convention we facilitate the translation of original works of foreign authors. I would draw his attention to Article V which specifically lays down:

"If after the expiration of a period of seven years from the date of the first publication of such a writing a translation of such writing has not been published in the national language or languages as the case may be, of the contracting State by the owner of the right of translation, or with his authorisation, any national of such contracting State may obtain a non-exclusive licence from the competent authority thereof to translate the work and publish the work or translate it in any of the national languages in which it has not been published."

Of course, according to international standards payment will have to be made, compensation will have to be given to the authors. Sir, I have nothing more to add to the remarks which I have already made and I request the House to adopt the Resolution.

MR. DEPUTY CHAIRMAN: The question is:

"That this House approves the Universal Copyright Convention and the Protocols thereto as adopted at Geneva on the 6th September 1952 and recommends that the said Convention and Protocols be ratified by the Government of India."

The motion was adopted.

THE LEGISLATIVE COUNCILS BILL, 1957

THE MINISTER OF LAW (SHRI A. K. SEN): Mr. Deputy Chairman, I move:

"That the Bill to provide for the creation of a Legislative Council for the State of Andhra Pradesh and the increasing of the strength of the Legislative Councils of the States having such Councils and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration."

In moving this motion it is not very necessary to elaborate the reasons which have compelled us to undertake this measure. Hon. Members will recollect that as a result of the States Reorganisation Act, major changes were wrought on the old States of Bombay, Mysore and Madhya Pradesh and also the Punjab. The States Reorganisation Act provided that so far as the States of Mysore, Bombay and the Punjab are concerned, new Legislative Councils should be constituted first and then they should be re-constituted again after the general elections held after the reorganisation of those States. So far as the State of Madhya Pradesh was concerned, the States Reorganisation

Act did not contemplate an interim constitution and a final re-constitution, but provided for a new Council consisting of 72 members. These territorial changes, vast as they were, had the effect of making the Legislative Councils—which originally prevailed in the States of Mysore, Bombay, Punjab and also the other States of Madras—rather obsolete. The entire State of Andhra Pradesh was carved out of a large portion of territory taken from the old State of Madras, the old State of Hyderabad, and possibly a little of the territory coming from the old State of Madhya Pradesh

DR. R. B. GOUR (Andhra Pradesh): No.

SHRI A. K. SEN: Possibly not. Mysore also underwent very significant transformation. Bombay, as you know, became quite different. Punjab did not become quite so different, but certainly it underwent territorial reorganisation. Now, so far as the Upper Chambers are concerned, the Councils in those States have had to be reorganised. So far as the State of Andhra Pradesh was concerned, we may say that a new Council had to be set up. The old State of Madras had a Council. The new State of Andhra Pradesh, which was carved out of a large portion of the territory which originally formed part of the old State of Madras did not continue to enjoy a Second Chamber, after the creation of that new State. Now, the Andhra Pradesh Legislative Assembly passed a Resolution recommending the creation of a Legislative Council for that State. In the meantime, the Seventh Amendment of the Constitution was passed which provided that the membership of the Legislative Council of a particular State should not exceed one-third of the membership of the Legislative Assembly of that particular State. The original limit was one-fourth. It was contemplated at the time the amendment was adopted by Parliament, as also the States concerned, that as a result of the reorganisation of various States which had Councils, various new

The Copyright (Amendment) Bill, 1982

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Now we take up the copyright (Amendment) Bill, 1982.

THE MINISTER OF STATE IN THE MINISTRY OF EDUCATION AND CULTURE AND SOCIAL WELFARE (SHRIMATI SHEILA KAUL): Sir, I beg to move:

"That the Bill to amend the Copyright Act, 1957, (Act No. 14 of 1957), be taken into consideration."

Our copyright law is governed by the Copyright Act which was passed in 1957. The Act conforms to the provision of the two International Conventions on Copyright of which India is a member, namely, the Berne Convention for the Protection of Literary and Artistic Works (1948 Brussels text) and the Universal Copyright Convention (1952). Both these Conventions were revised at Paris in 1971. The revised text, known as the Paris Act (1971), provides for certain additional facilities to the developing countries to enable them to have easier access to works of foreign origin required for educational purposes. This is proposed to be done through the grant of compulsory licences for translation and reproduction of such works if these rights could not be obtained on freely negotiated terms enabling their publication or ensuring their availability at prices reasonable in the national context. In fact, India was the chief spokesman in bringing about these amendments before the international forum. But India has not been able to take advantage of these provisions in the revised conventions because this is possible only after we have suitably amended the Copyright Act, 1957 to conform to the provisions of the revised Conventions and thereafter accede to the revised text. As a developing country, it will be in our interest to adhere to the two revised Conventions so as to avail of the benefits of the compulsory licensing rights.

The present Act does not provide adequate protection of authors' rights. Our authors, though reasonably well informed, are not always fully aware of the intricacies involved in negotiating the contracts they execute with their publishers, with the result they are not able to realise in full the benefits that arise within their rights. It is accordingly proposed to make certain additional provisions pertaining authors' rights such as providing for the manner of assignment of copyright from authors to publishers and to empower the Copyright Board to decide disputes arising out of such assignments.

The working of the Act has also revealed certain lacunae and administrative drawbacks. For example, there is no provision in the Act at present for the publication of unpublished works of an Indian author who is either dead or unknown or whose whereabouts are not traceable or where the owner of the copyright cannot be located. There is also no provision to prescribe the term of copyright in works owned by bodies corporate. Similarly, there are other administrative drawbacks which ought to be removed in the light of experience gained in the working of the Act. Accordingly, it is proposed to make certain amendments in the Act to remove these lacunae and practical difficulties.

To give effect to the above proposals, we have taken the opportunity to provide in the Bill, among other things, for the following amendments to the Act, namely—

(i) To provide for compulsory licensing for the translation of foreign works for educational purposes after a certain period in the prescribed manner.

(ii) To provide for the compulsory licensing of the reproduction of any edition of a foreign literary, scientific or artistic work for purposes of systematic instructional

activities after the expiry of certain periods.

(iii) It is proposed to provide that in the case of unpublished works where the author is either dead or unknown or owners of the copyright cannot be traced, any person wishing to publish the material or a translation thereof may do so in the prescribed manner.

(iv) Our authors are not always fully aware of the intricacies involved in negotiating the contracts they execute with their publishers. As a result, they are not able to realise in full the benefits that arise within their rights. To help the authors to get full benefits from such agreements/contracts, it is proposed to provide for the manner of assignment of copyright from authors to publishers and to empower the Copyright Board to decide disputes arising out of such assignments which may extend to permitting the author to withdraw from the assignment.

(v) Broadcasting authorities are also being permitted to translate foreign works for the broadcasting for purposes of systematic instructional activities.

(vi) It is proposed to clarify that in the case of any address or speech delivered in public, the person who has delivered such address or speech on behalf of any other person, such other person shall be the first owner of the copyright therein.

I am sure that since these proposals have been formulated to meet our educational requirements and to provide adequate safeguards for authors' interests in our copyright law, the Bill will be welcomed by all sections of the House.

I propose to move certain amendments to the Bill at the stage of its clause by clause consideration. Most of the amendments would be consequential and drafting in nature and

are designed to make the intention more clear. I will explain the nature of the individual amendments when I move them for consideration.

I commend the Bill for your consideration.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): There is one amendment by Shri Shiva Chandra Jha for reference of the Bill to a Select Committee. Shri Jha.

SHRI SHIVA CHANDRA JHA (Bihar): Sir, I move:

"That the Bill to amend the Copyright Act, 1957, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri R. R. Morarka
2. Shri Biswa Goswami
3. Shri Shridhar Wasudeo Dhabe
4. Shri Nepaldev Bhattacharya
5. Shri Dipen Ghosh
6. Shri Rameshwar Singh
7. Shri G. C. Bhattacharya
8. Shri Suraj Prasad
9. Shri Hari Shankar Bhabhra
10. Shri Kalraj Mishra
11. Shrimati Mohinder Kaur
12. Prof. Sourendra Bhattacharjee
13. Shri Shiva Chandra Jha

with instructions to report by the first week of the next Session."

The questions were proposed.

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): The motion for consideration and the amendment are now open for discussion. Shri Jha.

श्री शिव चन्द्र झा (बिहार) :
उपसभाध्यक्ष महोदय, 1886 के बर्न
कॉन्वेंशन या 1952 के युनिवर्सल कॉपी-
राइट कॉन्वेंशन या उसका पेरिस टैक्स्ट

[श्री शिव चन्द्र झा]

1971 का जो है उसके पूरे डिटेल्स में न जाकर यह कापीराइट संशोधन विधेयक जो हमारे सामने है, उसका क्या ऐसेंस है, मैं आपके सामने और सदन के सामने रखना चाहता हूँ। आप यदि आथर हैं, उपसभाध्यक्ष महोदय, तो आपका फायदा होगा कि आप मर जायें।

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Khushwant Singh at least seems to be in danger.

श्री शिव चन्द्र झा : आप मर जाएं तभी फायदा होगा, डैड आथर जो है उसको फायदा होगा। यदि आप जिन्दा रहना चाहते हैं तो आपको विदेशी होना पड़ेगा। इसके उदाहरण में दे देता हूँ। एक पुस्तक है "फ्रीडम ऐट मिड-नाइट"। खूब यह किताब बिकती है। अगर पब्लिशर कोई हिन्दुस्तान का है, वह हिन्दुस्तानी भाषाओं में उसको छापना चाहता है, लेखक से पत्राचार करता है, उससे उसका ऐग्रीमेंट नहीं हो पाता, तब वह कापीराइट बोर्ड के पास लिखेगा और कहेगा कि हमको अधिकार दे दो कम्पल्सरी लाइसेंस दे दो, हम छापेंगे। अंग्रेजी के लिए यह रखा हुआ है तीन साल का और हिन्दी भाषा में एक साल का। एक साल में वह खूब पैसे बनायेगा। पब्लिशर जो छापने वाला है वह पैसा बनायेगा और जो इसका लेखक है वह देखता रहेगा। पब्लिशर जो भारत में आमदनी होगी उसका फायदा उठा लेगा। हिन्दुस्तान अन-डेवलप्ड कंट्री है, एजुकेशन का बढ़ना जरूरी है, इसलिए यहां टेक्निकल और साइंटिफिक किताबों की आवश्यकता है और अमरीका और इंग्लैंड में ये किताबें बहुत महंगी हैं, हमारे यहां के लोगों की परचेजिंग पावर इस लायक नहीं है कि हमको उनकी जरूरत होते हुए भी

उनको खरीद सकें, इसलिए उनका रिप्रिंट होकर रीजनेबल प्राइस पर यहां बिके, इस रास्ते से हमारा एजुकेशनल सिस्टम बढ़ेगा, इससे हमारा विकास होगा, विकास में मदद मिलेगी, यह मीजर वैलकम मीजर है। लेकिन जो आथर मरे नहीं हैं, जो विदेशी नहीं हैं, ऐसे हजारों आथर हिन्दुस्तान में हैं, उनके लिए इसमें कोई प्रावधान है? उनको रायल्टी कैसे मिलेगी? आपका कोई दूसरा कानून है तो आप बता दीजिए। पब्लिशर उसको रायल्टी भी देता है या नहीं।

उपसभाध्यक्ष महोदय, नागार्जुन जी हिन्दी के एक बड़े लेखक हैं। वे बिहार से भाग गये। पब्लिशर उनको कुछ देता नहीं था, वह यू. पी. में गये और वहां से पुस्तकें प्रकाशित हुईं। प्रेम चन्द का नाम आपने सुना होगा। उनके 'गोदान' का कापीराइट 50 रुपये में खरीद लिया था। उसके लड़कों ने बाद में बदला लिया, ठीक किया, वह अलग कहानी है। इसी तरह से आज बम्बई के सड़कों पर हिन्दी कवि 'नैपाली' का परिवार मारा मारा फिर रहा है। उसके परिवार वाले भूखों मर रहे हैं कोई प्रावधान आपके कापीराइट में जिससे कि लेखक को रायल्टी मिल सके? आप मीनिमम वेजेज ऐक्ट, न्यूनतम मजदूरी, न्यूनतम वेतन की बात करते हैं। क्या लेखक को मीनिमम वेजेज देने की बात नहीं हो सकती है? मीनिमम रायल्टी की बात नहीं हो सकती है? क्या आपका कोई मापदण्ड है कि सारे देश में कितनी परसेंट रायल्टी मिलनी चाहिए। पंडित जवाहरलाल नेहरू बड़े लेखक थे उनकी किताबें बड़ी बिकती थीं। एक बिहार के पब्लिशर ने उनसे एक बार कहा कि पंडित जी एक किताब हमको भी दे दीजिए, हम आपको 25 परसेंट रायल्टी दूंगा। पंडित जी ने कहा—क्या चोरी करोगे? 5 हजार छापोगे और

एक हजार का हिसाब दोगे ? 25 परसेंट रायल्टी तो हमको अमरीका और इंग्लैंड से भी नहीं मिलती है, वहां से 10-12 परसेंट ही मिलती है, तुम 25 परसेंट कैसे दोगे ? एक हजार का हिसाब देगा और पांच हजार छापेगा । आप के पास कापीराइट में इसको रोकने का प्रावधान सेल्फ रिलायंस की बात दूसरे क्षेत्रों में की जाती है तो मेरा कहना है कि लेखक भी सेल्फ रिलायंस होना चाहिये । ऐसा होना चाहिये कि वह अपनी लेखनी की बदौलत अपनी जीविका कमा सके । क्या आपने कभी इस पर सोचा है ? चर्चिल लेखनी की बदौलत जिंदा रहता था । चर्चिल रायल्टी की बदौलत ही अपना जीवन गुजारता रहा उसकी एक आदत थी कि वह कापीराइट बेचता था । कापीराइट बेचकर उसने अपनी जिन्दगी गुजारी । अमेरिका में जो लेखक हैं वे अपनी लेखनी की बदौलत अपनी लिविंग चलाते हैं । इसकी वजह यह है कि वह शिक्षित देश है । लोगों के पास पैसा है । उनको एक प्रोपर रायल्टी, वह भी टाइमली दी जाती है । पब्लिकेशन की भी क्वान्टिटी होती है जिससे वह अपना गुजारा कर सकता है । मान लीजिए लेखक है उसकी 10 रुपये में किताब बिकती है । उसकी पांच हजार जरूर किताबें छपे और छपकर बिके । अगर उसकी पांच हजार किताबें बिकती हैं तो 50 हजार रुपये हुए और 5000 रुपये की रायल्टी उसको मिली । यानी 400 रुपये महीने उसको मिले । एक लेखक 400 रुपये में मोटे तौर से अपनी जिन्दगी गुजार सकता है । बिहार छोड़ कर, उत्तर प्रदेश छोड़ कर भागना नहीं पड़ेगा । क्या आपके पास इस कापीराइट में कोई प्रावधान है ? नौजवान लेखक आज आगे आ रहे हैं । जो लिखना चाहते हैं, कलमदानी का इस्तेमाल करना चाहते हैं उनकी रक्षा के लिये आपके पास कोई प्रावधान है ?

जो मर गये हैं, अन-नोन हैं, जिसका कोई पता नहीं है । हम इंटेरोजेंस विभाग से, खुफिया विभाग से इसका हम पता लगाते हैं । जो अलेमेंट्स हैं उनका पता लगेगा तो उसमें भी डिस्पूट होगा । उस डिस्पूट को खत्म करने के बाद ही देख पायेंगे कि कौन असली है । ऐसी कितनी रचनाएं हैं जिसको छापने के लिये लोग लालायित हैं ? अमेरिका में ऐसा है जितना लिख गये और वह छप गया उससे ज्यादा बिना छपा छोड़ कर चले जाते हैं । उसके मरने के बाद उसका लिखा हुआ छपता है । वह नहीं चाहता कि उसके जिन्दा रहते वह छपे । वह यह चाहता है कि उसके मरने के बाद ज्यादातर किताबें छपे । यह इसलिये होता था कि मरने के बाद जो छपता था उस पर कम टेक्स लगता था । कितने ही लेख हैं जो अनपब्लिशड हैं और पब्लिशर्स छापने के लिये लालायित हैं । मैं आपसे यह जानना चाहता हूं कि क्या हम ऑथर की मदद कर रहे हैं ? क्या हम उसके अधिकार की रक्षा के लिये कुछ कर रहे हैं ? आपको यह चाहिये कि जो नया लेखक है वह सेल्फ रिलायंस हो, अपने पैरों पर खड़ा हो । उसको निर्धारित मिनिमम वेजिज के रूप में रायल्टी मिले । उसकी एक खास क्वान्टिटी में 5 हजार, 4 हजार किताबें बिके और उसके बेचने की आप व्यवस्था करें । आप कहेंगे कि हम कैसे कर सकते हैं ? कपड़े के व्यापार के लिये स्टेट ट्रेडिंग कारपोरेशन है । दूसरी चीजों के लिये स्टेट ट्रेडिंग कारपोरेशन है लेकिन पांच हजार किताबें अगर छपती हैं तो उनको बेचने के लिये आपके पास कोई व्यवस्था नहीं है । यह बात समझ में नहीं आती । पांच हजार की अगर गारन्टी दे देंगे तो लेखक अपने पैरों पर खड़ा हो सकेगा । टेक्स्ट्स बुक्स आपकी बहुत छपती हैं । उसमें बड़ी धांधली होती है । उन सब

[श्री शिव चन्द्र झा]

को रोकने के लिये आपने क्या किया है ? इससे सबसे ज्यादा लाभान्वित होता है पब्लिशर्स । मैं मानता हूँ हिन्दुस्तान का पब्लिशर्स उस रूप में नहीं है जैसे मैगोहिल्स ब्रदर्स, न्यूयार्क में है । वह बहुत बड़ी कम्पनी है । ऐसी कोई कम्पनी हमारे यहां नहीं है । लेकिन एन्टर-प्राइस के जो हमारे पब्लिशर्स हैं उनको फायदा पहुंचाना चाहिये लेकिन फायदा एट द कोस्ट आफ आर्थर्स नहीं । मैं भी रायल्टी के दौर से गुजरा हूँ । उप-सभाध्यक्ष महोदय, अभी हाल ही में मैं अपने पब्लिशर के पास रायल्टी लेने के लिए कलकत्ता गया था । मेरी छः किताबें छपी हुई हैं । मेरा पब्लिशर रायल्टी देता रहता है । कभी आगे और कभी पीछे, रायल्टी देता रहता है । उसमें गड़बड़ नहीं करता है । लेकिन बहुत से ऐसे लेखक हैं जिनके अधिकार सुरक्षित नहीं हैं । लेखकों के अधिकारों को सुरक्षित रखने के लिए, उनको मदद पहुंचाने के लिए इस विधेयक में कोई प्रावधान नहीं किया गया है । बहुत-सी टेक्नीकल किताबें होती हैं जिनका ट्रांसलेशन करवाया जाता है । उनको उस ट्रांसलेशन करने का कितना पैसा मिलता है, इस बारे में भी कुछ कहा गया है । अगर आप उनको इसेंटिव देने के लिए इस विधेयक में कोई प्रावधान करते तो बहुत अच्छा होता और उनको टेक्नीकल किताबें ट्रांसलेट करने के लिए प्रोत्साहन मिलता । इस बारे में जो कंवेन्शन है, यह ठीक है, कि उसके आधार पर आपको सस्ती किताबें मिल जाती हैं, लेकिन हमारे देश के लेखकों को भी प्रोत्साहन देने के लिए कोई प्रोविजन किया जाना चाहिए । कुछ दिन पहले मैं कनाडा

प्लेस में घूम रहा था और किताबों की दुकान पर था । वहां मैंने देखा कि एक किताब का दाम 25 रुपये है । मैं उस किताब को खरीदना चाहता था, लेकिन कीमत अधिक होने के कारण मैंने दो बार इस पर विचार किया । आप जानते हैं, मैं एम० पी० हूँ, अच्छी पोजीशन में हूँ, किताबें खरीद सकता हूँ, लेकिन मुझे भी दो बार सोचने की जरूरत पड़ी कि इस किताब को खरीदूं या नहीं । उसी दुकान पर मेरी किताब भी थी और उसका दाम था 35 रु० मैंने सोचा कि अगर मैं 25 रु० की किताब नहीं खरीदूंगा तो फिर कौन खरीदेगा, इस विचार से मैंने वह किताब खरीद ली । इस तरह की बहुत सी किताबें हैं जो हम लोग देखते हैं । इसलिए मेरा कहना यह है कि लेखकों को मदद पहुंचाने के लिए आपको इस बिल में कोई प्रावधान करना चाहिए ।

इस बिल में फोनोग्राफी इंडस्ट्री के संबंध में कोई प्रावधान नहीं किया गया है । इस संबंध में शिकायतें भी आई हैं और पत्राचार भी हुआ है । रिकार्डिंग में भी गड़बड़ी होती है । पायरसी के बारे में भी इस बिल में कोई प्रावधान नहीं है ।

जहां तक कापीराइट का सवाल है, इसके साथ प्रिंटिंग प्रेस का भी सवाल जुड़ा हुआ है । जीन गुटनवर्ग ने 1478 में प्रिंटिंग प्रेस की शुरुआत डाली, टैम पैन ने कामनसेन्स किताब लिखी, लेकिन उसको कठिनाइयों का सामना पड़ा, उसको गटर मिला । इसी प्रकार से नागार्जुन की बात मैंने कही है । इसलिए जरूरत इस बात की है कि लेखकों को कोई मदद मिल सके इसके लिए प्रावधान किया जाना चाहिए । कुछ ऐसी किताबें

भी हैं जिनके लेखक मर गये या जिनके लेखकों के बारे में जानकारी नहीं है। बहुत सी हमारे देश की क्लासिकल किताबें हैं, भारतीय संस्कृति से संबंधित किताबें हैं, उनकी रायल्टी का भी सवाल है। उन किताबों की रायल्टी समाज को क्यों न जाये, इस पर भी विचार करने की जरूरत है। हमारे देश में जैसे रामचरित्र मानस है, रामायण है, महाभारत है, इनके लेखकों का कोई पता नहीं है। उनकी रायल्टी कुछ लोगों को न जाकर समाज को क्यों नहीं जाय, इस पर विचार करने की जरूरत है। गीता की किताब की रायल्टी समाज को क्यों न जाय? श्री जवाहरलाल नेहरू की किताबों की रायल्टी का भी सवाल है। आखिरी बात मैं यह कहना चाहता हूँ कि किताबें सस्ती होनी चाहिए ताकि साधारण आदमी जैसा मैंने कहा, उनको आसानी से खरीद सके। लेकिन इंटरनल 'इंडिया' जिसकी कीमत 400 रुपये है, मुझे बताइये कि वह किसने खरीदी है यहां पर। जरा पूछिये कि किसकी हिम्मत इंटरनल इंडिया को खरीदने की है। इतनी ऊंची कीमत रखी गई है कौन खरीद सकता है? आपको वह किताब सस्ते दामों पर रखनी चाहिए थी ताकि आपकी बात को नौजवान और आम जनता जान सके। 400 रुपये कीमत जिस किताब की है उसे तो सिर्फ दूर से शीशे में ही बंद देख सकते हैं। ... (व्यवधान) ... वह अलग बात है। मेरा आपसे कहना है कि आपको इस बात का ख्याल रखना होगा कि रीजनेबल प्राइस पर ट्रान्सलेशन, री-प्रिन्ट्स नहीं, जो अच्छी किताबें हैं वह मिलें, इस पर आपको सोचना होगा। क्या आपकी कापीराइट की कोई नीति है? कुछ नहीं सूझो कन्वेंशन करें इसमें तो कोई ऐतराज नहीं है। जो इंटरनेशनल एग्री-मेंट्स हैं उनके रेटीफिकेशन के लिये आपको जो करना पड़ता है, करें, तत्काल

साइटिफिक और टेक्नीकल किताबें आयेगी, सस्ते भावों पर मिलेगी, इस में भी फायदा है। लेकिन आपको इस दृष्टि से सोचना होगा कि नई जनरेशन में लेखक बनाने हैं सेल्फ रिलयान्ट, रायल्टी, टोटल प्रोडक्शन उसका सेल तमाम नीतियों पर आपको विचार करना है। पाइरेसी, यह किसी भी रूप में हो इसको सख्ती से रोकना है। पुलिस के जरिये इसको आप रोक नहीं सकते। कापीराइट्स से आप वाकिफ हैं। इसलिये इन सब बातों को मद्देनजर रखकर इसके लिये एक कम्प्रेहेंसिव बिल होना चाहिए। इसलिये मेरा संशोधन है इसको सेलेक्ट कमेटी में भेजा जाय। इतना कहकर मैं इसका विरोध करता हूँ और कहना चाहता हूँ कि इसको सेलेक्ट कमेटी में भेजा जाय।

THE VICE-CHAIRMAN (SHRI DINESH GOSWAMI): Mr. Handique, since Mr. Ramakrishnan is to take the Chair, may I call him first?

SHRI BIJOY KRISHNA HANDIQUE (Assam): All right.

SHRI R. RAMAKRISHNAN (Tamil Nadu): I won't take more than a few minutes, Mr. Vice-Chairman. This is a very specialised Bill. But it is really a sad commentary on the functioning of the Government of India, irrespective of the political ideology or whichever the party in power. This Copyright Amendment Bill seeks mainly to give a thrust to the Piracy Act of 1971-72. It has been lying in the corridors of the Education Ministry and the Law Ministry for eleven long years which really speaks for itself. But it has not come a day too soon because this will definitely give India which is a developing country a better access to the widening frontiers of knowledge and research. Today we have three important things which this Bill has not taken note of or has provided for. One is about the book piracy which has briefly mentioned by my honourable friend, Mr. Shiva Chandra Jha. The other is phonographic piracy, and the third is video piracy. This has not provided for any of these; in fact,

[Shri R. Ramakrishnan]

this Bill has not even touched Chapter 13 of the original Copyright Act making either the punishment more stringent or, if not, at least making it cognizable. The Government may well say—and that has been the contention of the Law Ministry all along — that there is something wrong with the enforcement machinery and not with the punishment which is provided in Chapter 13 itself. Whatever that may be, I think the honourable Minister will do well in consultation with the Home Minister to see that there is a special provision for a division of the Central Bureau of Investigation composed of knowledgeable officers which will be a specialist organisation who will go into this sort of crimes, because today any best-seller or anything like that you can get in the book-shops of Delhi, Bombay or Madras for one-tenth of the price. So what happens to the authors? Secondly, poor quality cassette recordings are available in plenty and the poor cine artistes and the musicians and others, the performing artistes, are not given any protection of getting royalty, and cheap quality cassettes are there all over the country. And the latest craze which is also reported in all newspapers and magazines of which you yourself may be aware, is video piracy. There is the problem of video cassettes all over the country and most of the video cassettes which are brought are now plagiarised and copied in cheap version, and this Bill must do something to provide for its copyrights. I only ask one more question. What is the Copyright Board itself doing? How frequently has it met? How many complaints have been received by them? Is it functioning properly? Is the Ministry of Education closely monitoring its performance?

There was the WIPO-World Intellectuals' Property Organisation which is a specialised agency of the United Nations. It had its meeting in New Delhi this year between January 25th and 29th. I believe Indian representatives including the hon. Minister was attending the meeting. They discussed so many new things. Has our country contributed to their discussion and if so will anything fruitful come out of this meeting?

SHRI BIJOY KRISHNA HANDIQUE
Mr. Vice-Chairman, I rise to speak in support of the Indian Copyright (Amendment) Bill moved by the hon. Minister for Education.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): in the chair.

As you said about the delay—it is the ten years' itch—it has surpassed the Seven Years Itch—at long last the Copyright Bill plods its way to Parliament and a decade of anxiety, suspense and uncertainty and misgivings ends today.

Sir, ever since the Paris Conference held in 1972 and called to improve the Copyright Convention of Berne of 1886 and the Universal Copyright Convention, 1932, this Bill, which was on the anvil to be updated and was well under way was indeed ill-fated. It has passed through vicissitudes of flirting fortunes because of political change, confusion and uncertainty.

Sir, the Copyright law, having been outdated, has lost its teeth and it has been reduced over the years to the position of a helpless witness to the uninterrupted spell of piracy of books, music, tapes and records. And the recent victim, as you have pointed out, is the movie which is subjected to the assault of mushrooming video conversion racket. It is piracy galore, as if not to lag behind in this book business of the world.

It is estimated that the annual turnover of the pirated books in India alone represents more than half the total turnover of the entire publishing industry. As a result, everybody in the trade is a loser the author, the publisher, the Government and even the public. The author is deprived of his royalty, the publisher of his profit, the Government of the revenue and the public of the quality of the thing.

Sir, according to the Secretary-General of the Authors' Guild of India, the books printed in India are being pirated in large scale to Pakistan. That is his report. And some of the pirated books are even prescribed as text books in Universities. It has been also reported that Urdu books are being reportedly pirated both in India and Pakistan on almost regular basis. But

ironically both India and Pakistan are party to the Berne Convention and the Geneva Convention.

One major reason of the Copyright laws being outdated is that it has failed to keep up with the pace of the publishing technology. Some thirty years ago, Sir, it was really difficult to pirate books because the publishing technology was not as advanced as it is today. Now, Sir, the offset photo-copying of the books makes piracy very easy. As a result it was reported that the pirated editions arrive on Indian footpaths and pavements much earlier than the authentic editions through the recognised publishers. The same is the case with the video cassettes and music records.

Sir, it is indeed an irony, and a surprise to the participating countries in the Paris Conference that they have to reconcile themselves to the fact that India, which played a leading role in the Conference in protecting the copyright of these countries in the fields of art and literature and phonographic work while improving upon the Berne and Geneva decisions, has herself been sitting ultimately idle over the copyright responsibilities and obligations over the years. At the same time, we must not fail to appreciate the good work done by the Indian representatives at the Paris Conference, as has been pointed out by the honourable Education Minister. One point which needs to be mentioned here is the concession secured for the developing countries from the advanced countries like the USSR, USA and UK. This is a concession to grant reproduction and translation rights of valuable and expensive works to the developing countries. Till then, Sir, it was next to impossible for the developing countries to import foreign books including those books which are recommended by the universities as essential because of their prohibitive prices. Thus it is proved that the copyright laws do help the developing countries in widening the frontiers of knowledge.

Sir, the decision of the Paris Conference is significant as it was decided that compulsory licences would be granted by one country to another for concessional works of foreign origin, in the language of the

licensing country, subject, however, to certain conditions and to the time-schedule ranging from about two years to seven years. But, Sir, although the limitation of time fixed for obtaining the licence is somewhat disadvantageous to the developing countries like India, we can still benefit from the growing knowledge of the West once this Copyright Act is amended. Moreover, we have also bilateral arrangements with the advanced countries like the USA, USSR and the UK for direct purchase of valuable books soon after they are out in the market. Sir, a suggestion is in the air to make the piracy of the printed word or pornographic material a cognizable offence and for making the relevant provisions of the law more stringent. Sir, you yourself made the suggestion. However, one has to admit that the existing provisions of the Indian Copyright Act are fairly strong. But their enforcement by the police or any agency responsible for such enforcement leaves much to be desired. The weakness, therefore, lies not in the penal provisions, but in the agency responsible for enforcing such penal provisions of the law. If the police is properly briefed on the subject—of course, the subject is complicated particularly for the policemen to understand all its implications — I do not think that it will be difficult, even on the basis of the existing laws, to bring the offenders to book. It is, however, to be admitted that piracy has become easier, faster and more sophisticated because of the advanced technology of reproduction, and our police cannot be expected to cope with it. It is not just like chasing common offender. But the fact remains—and we cannot get out of it—that this infringement of the copyright has the tacit support of the public. It may sound unpleasant but it is a fact that it has the support of the public. The public, in most cases without knowing, encourage or at least is not hostile to the piracy, since the pirated goods are cheaper. As pirated goods are stolen goods and as the keeper of stolen goods is liable under the criminal laws, I wonder whether this provision could be invoked to deal with these thieves of a higher order. This is a question for the legal experts to settle.

[Shri R. Ramakrishnan]

But, Sir, we could emphasize one point. We should emphasize letting people know that it is a crime, educating them how our poets, novelists, artistes, singers, and painters are wronged and deprived of their dues, that their sacred rights are protected by the U.N. Charter and are considered part of the universal Declaration of Human Rights, and that the World Intellectual Property Organisation was set up in 1962 to protect their rights. Unless the public awareness is aroused that it is not only the duty of every State but of every citizen to ensure that no user of this property exploits its owner. Invoking penal laws alone will not solve the problem. Sir, the people need to be told through a media campaign that piracy of such works is nothing but theft.

Sir, before I conclude, a word about the protest reportedly made by the publishing and phonographic trade. Sir, while those in this trade are happy with the proposed strict enforcement of the penal provisions of the Act, they are not happy with the compulsory licensing system as recommended in the Copyright (Amendment) Bill, as they are afraid that if books by renowned foreign authors are permitted to be published in the country under the Compulsory Licensing System, it will destroy the market for books by Indian authors. But can we prevent the coming of books from the foreign countries by making or unmaking laws? Can we, or should we wilfully obstruct them from reaching the readers easily by creating a jugglery of rules or keeping the price exceptionally high only to compel the Indian readers to read books by the Indian authors? Sir, we should bear in mind that books defy national frontiers—any kind, geographical or otherwise. Sir, no one has a craze for reading foreign authors just for the sake of it. So, Sir, this should also be borne in mind that the world is today becoming smaller and smaller and that the age is for more and more widening the frontiers of know-

ledge by more and more exchange of ideas. So this protest from the publishing industry, I don't think, is really reasonable at all.

With these words, Sir, I conclude, and I hope that the authorities, the Education Ministry, will take adequate steps to implement the provisions of this Bill.

Thank you, Sir.

SHRI SUKOMAL SEN (West Bengal): Mr. Vice-Chairman, Sir, in general I have no disagreement with the object of the Bill. But I feel that this Bill is not at all comprehensive and it has belied the hopes both of the publishers and also of the authors. That is why I would like to point out the defects and lacunae that exist in the Bill. I would suggest remedies and hope that the hon. Minister will consider the suggestions and come forward with a revised Bill. It is agreed that after the 1971 Paris Convention certain necessities arose to revise the Bill so that the provisions of that Convention in Paris could be incorporated in the Copyright Bill of 1957. Those provisions are beneficial for the developing countries. But this is not sufficient for the Amending Bill. While protecting the interests of the publishers and incorporating the provisions of the Paris Convention of 1971, the Government has failed to protect the interests of the publishers in some other vital aspects. My earlier speaker mentioned about the piracy of books. The main problem which is faced by the publishing industry now-a-days in our country is piracy of books. In fact, the provisions of Copyright Act of 1957, Act 14 of 1957, are not strong enough to protect the publishers from piracy and from unauthorised editions. I will give some examples as to how books are pirated. There is piracy of indigenous books, imported books and also there are fake books. In this way, even indigenous

books are pirated, foreign books are pirated and fake books are produced which have actually no authors. Some books written by somebody are published in the name of some good and established authors and the publishing industry finds it difficult to save themselves from this piracy. So, the publishing industry is suffering from this piracy. The authors also suffer on account of piracy because they lose royalty on pirated books. The Copyright Board actually does not recognise piracy as a cognizable offence. As a result, it is very difficult for the publishers to fight this piracy. In fact, the publisher may go to some court of law. But the litigation is so costly and the publishing industry is not so big in our country. They can hardly afford to go in for litigation. As a result of this, piracy is ruling high in our country. I am afraid that from 1500 to 2000 titles are being pirated in India every year. As a result, both the publishers and the authors are losing by way of this piracy of books. I, therefore, suggest that book piracy should be made a cognizable offence and the Minister of Education should look into it so that this piracy is checked. They should come out with a statement time to time that they have been able to check piracy in book trade in our country.

I would like to draw the attention of the hon. Minister to another aspect. Many of the book-shops are dealing with pirated books. Those bookshops should be kept under close vigilance. I would like to say that the book-stands at the railway stations are run with the permission of the Railway authorities. Many of the book-stalls deal with pirated books. I can say that the book-stalls at the Delhi and New Delhi stations deal with these pirated books. Then even the book-stalls run with Government permission are

4 P.M. dealing with pirated books.

The Government should look into it so that the piracy of books is forestalled in our country. Otherwise, the book trade in the country will very much suffer.

Sir, I would like to draw the attention of the hon. Minister to another aspect, that is the interest of the author. Now the Government has come up with an amendment—Amendment No. 19A. This amendment is welcome. But it does not appear to be sufficient or adequate to safeguard the interest of the author because the amendment says that in case of any dispute between the author and the publisher, either side can refer the dispute to the Copyright Board and the Copyright Board would look into it and try to resolve the dispute. But, Sir, the authors are deprived by the publishers in so many ways. Just as the publishers are cheated by the pirates of the books so also there are some publishers who also try to deprive the authors of their due royalty. And how do they do it? The usual course of some publishers is to print more copies of the book than that stipulated in the agreement and thereby deprive the authors of their due royalty. And another way in which the authors are deprived by the publishers is that the publishers very frequently refuse to pay due royalty to the authors by suppressing the sale figures, and the authors have no way out of getting the due royalty from the publishers until and unless they seek the shelters of the court. These aspects are actually very much hampering the interests of the authors. And I would suggest that the Government should come up with some provisions so as to protect the interests of the authors. I would suggest that there should be an arrangement, there should be some provision in the Bill by which the authors can demand a certified copy of the print order given by the publisher to the printing press for publication of a particular book. In case any doubt arises in the mind of an author that the publisher is printing more number of copies than that stipulated in the agreement, a certified copy of the print order given by the publisher to the printing press should be made available to the author. And a certified copy of the

[Shri Sukomal Sen]

Auditor's Report, auditing the accounts of the publishing firm, should also be made available to the author in case of any doubt. These two safeguards should be there in the Bill. Otherwise, the authors' interest cannot be protected. Sir, another aspect is the refusal by the publishers to pay the royalty to the authors. In that case, the author can go to a court of law. But it is a very costly affair and hardly any author would like to go to a court of law for getting his royalty from the publisher. In that respect, the Copyright Board should have some power, and this Bill should empower the Copyright Board so that if any author makes a reference to the Copyright Board, they can intervene and safeguard the interests of the author. So, I would like the hon. Minister to go into the details of this aspect of how to protect the interests of the publishers as also the authors and come up with a comprehensive Bill so that it can safeguard the interests of both the publishing industry and the authors of our country. She should come up with a comprehensive Bill, and withdraw the present one.

In conclusion, I would like to say that this entire copyright affair which we have been discussing here means the copyright of intellectual property. It is painful that we are discussing the copyright of the intellectual property. It means that whatever our authors will write or publishers will print for dissemination of knowledge is basically treated as private property. It is very painful that we are living in such a society that even this intellectual production is treated as private property and a capitalist mode of trade is allowed in intellectual property also, in intellectual production also. I would like to draw the attention of the House and of the hon. Minister to the fact that in the U.S.S.R., Soviet Russia, which is perhaps the biggest producer of books, they are not a party to this Berne Convention or Paris Convention on copyright. There writing of a book is

not for profit, is not for earning some money. Publishing a book is not based on a profit motive. Writing and publishing books are only based on the consideration and motive of dissemination of knowledge among the people. So, without going into the copyright aspect, Soviet Russia is able to produce the largest number of books in the country and disseminating knowledge not only in their country but throughout the world without any profit motive. So, there is also an alternative to this Copyright Act, building a new society where this Copyright Act can be totally discarded. So, Sir, I would like to draw the attention of the House and also of the hon. Minister to the position that we are living in a different type of society where capitalist mode of production is the order of the day. So, it is not possible for us to discard the Copyright Act. With this limitation, I would request the hon. Minister to come up with a revised Bill so that the interests of publishers and authors can be protected in the right way.

श्री राम लखन प्रसाद गुप्त (बिहार) :

उपसभाध्यक्ष महोदय, बर्न कन्वेंशन, 1948, यूनिवर्सल कन्वेंशन कापीराइट, 1952 के बाद आपने कापीराइट एक्ट बनाया 1957 में और फिर जब बर्न कन्वेंशन रिवाइज किया गया 1971 में उसके बाद यह बिल जो लाया गया है यह भी 1975 में तैयार किया गया था। परन्तु इतने दिनों के बाद आज इस बिल को लाया गया है और जो यह बिल आया है, जिस हालत में आया है वह भी प्रशंसा के लायक नहीं है। इसमें सारी समस्याओं का हल यह नहीं निकाल सके हैं। इसके विषय में मैं अंत में कहूंगा, मैं सबसे पहले सेक्शन 17 आफ द प्रिंसिपल एक्ट 'बी' (डीडी) अमेंडमेंट में जो कहा गया है उसके विषय में कहना चाहता हूँ :—

In the case of a work made or first published by or under the direction or control of any body corporate such

body corporate shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein.

Explanation.—For the purpose of this clause and section 28A, body corporate includes a firm or other association of persons.

इसका मतलब यह हुआ कि अगर कोई एग्रीमेंट विरोध में नहीं है तो यह कापीराइट चला जायेगा जो शुरू में पब्लिश किया या शुरू में प्रोड्यूस किया इसका अर्थ यह भी हुआ कि अगर हम फिल्मों को ले लें तो जो इसमें छोटा सिंगर होता है जिनका नाम नहीं निकलता है अगर वह कोई गीत देता है या अपना गाना देता है तो उस समय जो प्रोड्यूसर है वह जो चाहेगा, जो टर्मस् डिक्टे करेगा उसी पर एग्रीमेंट किया जायेगा। जो एग्रीमेंट या कॉन्ट्रैक्ट वह सिंगर करना चाहेगा वह नहीं माना जायेगा। नतीजा यह होगा कि बाद में जब वह गीत बढ़ जाता है और जब उसका बहुत नाम हो जाता है तो ऐसी हालत में जो कुछ भी उसका फायदा होगा वह प्रोड्यूसर को होगा। उसका फायदा सिंगर को नहीं होगा। वह राइट प्रोड्यूसर का होगा, सिंगर का नहीं होगा। बड़े-बड़े जो सिंगर हैं जैसे आर० डी० बर्मन वगैरह हैं ये अपनी टर्मस् डिक्टे करते हैं। जो चाहते हैं उसी तरीके से एग्रीमेंट करते हैं। लेकिन आज जो छोटे सिंगर हैं या छोटे पब्लिशर्स हैं वे आज अपनी टर्मस् डिक्टे नहीं कर सकते। उसी तरह से जो किताबें लिखने वाले भी हैं जिनका नाम अभी नहीं निकला है, जो बहुत अच्छा लिखते हैं जिसकी प्रशंसा भी होती है, वे किसी भी शर्त पर अपनी किताब पब्लिश करना चाहते हैं। इसलिए वे पब्लिशर के सामने कोई शर्त नहीं लगा पाते हैं। वैसे हालत में जो एग्रीमेंट होता है, वही रहता है। इसमें आपने डी० डी० का प्रोविजन किया है कि इन

दी एक्सेन्स आफ एनी एग्रीमेंट टू दी कंट्रेरी, यह केपिटलिस्ट्स प्रोड्यूसर्स और जो पब्लिशर्स हैं उनके हक में जाता है और जो छोटे उदीयमान लेखक हैं उनके इंटरेस्ट के खिलाफ जाता है। इसलिए यह प्रावधान किसी भी तरह से नहीं होना चाहिए था।

दूसरी बात मैं यह कहना चाहता हूँ कि सेक्शन 19(ए) के विषय में मेरे पूर्ववक्ता महोदय ने बहुत ठीक कहा है कि जो प्रिंटर्स का आर्डर है वह सामने आना चाहिए, उसका आडिट एकाउंट सामने आना चाहिए और उसके साथ-साथ उस पर बाइंडिंग हो, ऑब्लिगेटरी हो कि वह सारी चीजें रिटन में और जो भी औथर है उसको एकाउंट को देखने की सुविधा होनी चाहिए। उनको इस बात का हक होना चाहिए कि वह जाकर देख सकें और जांच कर सकें। हमारे मित्र श्री शिव चन्द्र झा जी ने कहा कि हमारी रायलिटी मिल जाती है, उसमें कोई गड़बड़ी नहीं होती है। ये तो एम० पी० है, बड़े आदमी हैं, लड़ाकू हैं, इनको कोई कठिनाई नहीं होती होगी। बाकी औथर्स तो वैसे नहीं होते हैं, सायलेन्ट आदमी होते हैं। वे लड़ते-झगड़ते नहीं हैं। इसलिए यह जो 19(ए) का प्रावधान है, यह अच्छा है। इसमें कोर्ट में जाने की जरूरत नहीं होगी। एक बोर्ड बनेगा जिसमें प्रकाशक और लेखक, दोनों होंगे। इस तरह से मामले तय होंगे। इसके साथ-साथ यह भी देखना चाहिए कि आजकल प्रकाशकों की हालत भी खराब है। उनकी हालत इस दृष्टि से खराब है कि मान लीजिये कि एक तरफ हम कोई किताब का एग्रीमेंट करते हैं, किताब छपनी शुरू हो जाती है और छपने में एक वर्ष का समय लगता है। छः महीने के बाद कोई संशुद्ध खड़ा कर देता है तो कठिनाई पैदा हो जाती है। मामला कोर्ट में चला जाता है।

[श्री राम लखन प्रसाद गुप्त]

बैसी हालत में पब्लिशर को शंका पैदा हो सकती है। इसलिए मैंने कहा कि जहां तक प्रकाशक का सवाल है, वह भी साफ होना चाहिए। इसमें कोई इस तरह की व्यवस्था होनी चाहिए कि दो तीन महीने के अन्दर ही कोई बात हो या कोई एतराज हो तो वह हो जाय ताकि पब्लिशर का कोई नुकसान न हो। आप जानते हैं कि हिन्दुस्तान में किताबें भी महंगी हैं, कागज भी महंगा हो गया है। इन सारी बातों को ख्याल में रखते हुए पब्लिशर का भी ध्यान रखा जाना चाहिए। उसके इंटेरेस्ट का भी विचार किया जाना चाहिए। यह सेशन 19(ए) लेखक की भी और पब्लिशर की भी समस्याओं का हल नहीं करता है क्योंकि इसमें फिल्म में गाने वाले, ट्रांसलेट करने वाले, खुद लिखने वाले, इन सब लोगों के लिए पूरा प्रावधान नहीं किया गया है जिसके कारण यह बिल अधूरा रह गया है। इसलिए मैं यह कहना चाहता हूं कि इसके लिए कुछ ऐसा किया जाना चाहिए कि एक कापी राइट कौंसिल आफ इंडिया बननी चाहिए और यह कापीराइट कौंसिल आफ इंडिया राष्ट्र के अन्दर भी और विदेशों के अन्दर भी इन सारी चीजों को देखे, सारी समस्याओं की देखरेख करे, उनकी समस्याओं का निदान करें। इसके साथ-साथ मैं यह भी कहना चाहता हूं कि इसके अन्दर सुप्रीम कोर्ट का एक जजमेन्ट हुआ है। यह झगड़ा फारमोविंग सोसायटी लिमिटेड वरसेज ईस्टर्न इंडिया मोशन पिक्चर एसोसिएशन एण्ड अदर्स के बीच था। इसमें सुप्रीम कोर्ट का जजमेन्ट हुआ। जस्टिस थे—जस्टिस जसवन्त सिंह और जस्टिस कृष्णा अय्यर। इसमें जस्टिस कृष्णा अय्यर ने कहा है—

"The judgement of the Supreme Court in effect denied composers and authors all rights over their own works, once these works had been

included in the cinematograph film. However, Mr. Justice Krishna Iyer, added a footnote (Appendix 'C'). The footnote was added "solely to light a slightly penumbral area of the law and to voice a need for legislative exploration to protect a category now left in the cold". The Learned Judge had further stated, 'Of course, law making is the province of Parliament, but the Court must communicate to the law-maker such infirmities as exist in the law extant'".

यह जो आबजर्वेशन हुआ है सुप्रीम कोर्ट का, इसमें खासकर के यह कहा गया है कि पार्लियामेंट को इन चीजों को देखना चाहिए। लेकिन इसके ऊपर भी विचार इस बिल के अन्दर नहीं किया गया है।

जहां तक ट्रांसलेशन का सवाल है, ट्रांसलेशन के लिये भी इसमें कोई सुविधा नहीं दी गई है कि ट्रांसलेशन जो है वह किसकी परमीशन और किस तरह से किया जाय। अगर इसमें ऐसा होता कि ट्रांसलेशन बोर्ड जो है, उसकी परमीशन से कोई भी कर सकता है यह उचित होता। चाहे बोर्ड को, जो आथर है अगर उस आथर का पता नहीं है, पता नहीं चलता है तो एक मर्तबा एडवर्टाईजमेंट करके भी, उसका आबजर्वेशन सुनकर वह इस तरह के आदेश दे लेकिन इसके लिये भी कोई प्रावधान इसमें नहीं किया गया है।

अतः इन सारी चीजों को देखते हुए मेरा कहना है कि सरकार को इस बिल पर नये सिरे से विचार करना चाहिए लेकिन यह नहीं कि इसको अभी से विद्वज्ज कर ले, सलेक्ट कमेटी में भेजे। मेरा कहना है कि इन मुद्दाओं के अनुसार इसमें संशोधन करके पुनः बिल सरकार को लाना चाहिए।

SHRI SANKAR PRASAD MITRA
(West Bengal): Mr. Vice-Chairman,
Sir, the hon. Minister has already

stated that this particular Bill seeks to give effect to the revised conventions at Paris in April 1971.

One of the principal features of this Bill is that developing countries can grant compulsory licences for translations and reproductions of foreign books containing original contributions for teaching, scholarship or research and systematic instructional activities. The compulsory licences will be granted in cases where reasonably-negotiated terms are not available. But Sir, I would like to know one thing. Perhaps, this is in accordance with the convention. The Bill provides that translations would be allowed of foreign works after three years if the work is in the language of a developed country and it would be allowed after one year if the language in which the original work exists is not the language of a developed country. You are aware, Sir, all over the country, there is a demand for the mother-tongue being the medium of instruction from the primary stage right up to the post-graduate stage. The periods prescribed in the Bill, namely, three years and one year; if it is in terms of the convention, then, nothing can be done, but if it is not in terms of the conventions; then, three years and one year for purposes of scientific literature seem to me to be too long periods. Because, if you translate an original book in English, after three years, say, a book on science, by the time the translation is completed, the contents might have become outdated. And the purpose for which the translation is being made may be frustrated to a very great extent. This is an aspect of the matter which the hon. Education Minister will kindly take into consideration and see whether these two periods can reasonably be reduced.

Sir, on the question of piracy, the hon Members who have already participated have referred to piracy from different points of view. Kindly permit me, Mr. Vice-Chairman, to deal

with this subject a little more in detail. After all, you are bringing this Bill before Parliament nearly 12 years after adoption of the revised conventions, and as Members of Parliament it would not be unreasonable for us to expect that this Bill should have been more comprehensive in character. Large-scale infringement and violation of copyright of artists, musicians, composers and producers of records is commonly known as piracy. In the amending Bill anti-piracy measures have not been included at all. You are aware, Sir, that records and cassettes run very great risks. Out of 10 records and cassettes one may be a hit. The pirates go in for the hit and flood the market with illicit and unauthorised reproductions. They are flooding the markets at a considerably low price. Why is it possible for them to bring such records and cassettes into the market at such low prices? There are several reasons.

- (1) The pirates do not develop or create the product.
- (2) They incur no expenses on marketing, research, studio recording, musicians' fees, factory and commercial overheads, advertising and promotion.
- (3) They make no payment of royalties to artists, composers, lyric writers or film producers.
- (4) They make no payment of excise duty, sales tax, octroi and other levies.
- (5) They pay no income taxes or other corporate taxes.
- (6) They suffer no losses on account of unsuccessful records.

Hon. Education Minister, I believe, knows because it has appeared in many newspapers that, in the United

[Shri Sankar Prasad Mitra]

States of America the copyright law was amended in May 1982, I am told, making piracy a felony. You are aware that in English criminal law a distinction is made between felony and mis-demeanour. Felony is a graver offence and piracy has been made a graver offence in the United States law. The law provides, as it is reported in newspapers, for a fine up to 2,50,000 dollars or imprisonment upto 5 years. Sir, with regard to books, similar piracies are taking place. There is piracy of indigenous books, popular text books, popular fictions. There is piracy of imported books because of import restrictions and publishers seek reprint rights from foreign publishers on payment of meagre tax-paid royalty which includes permission for export—both for fictions and text-books. Then there are fake books which are also pirated books. In Bengal, Sir, it is remoured that many books are available in the market supposed to have been written by Kazi Nazrul Islam which were never written by him:

The Vice-Chairman (Shri Syed Rahmat Ali) in the Chair.

They were written by persons who came afterwards and have been using the poet's name because the poet was suffering from a deadly disease of the brain. It is strange, Sir, that if my hon. friend, Shri Shiva Chandra Jha's book is stolen from a stall, it is a cognizable offence, but piracy is not a cognizable offence in our country up till now and persons aggrieved have to launch litigation involving huge expenses. For the information of the hon. Minister, I can tell her that in the Calcutta High Court, there are records of an old case of two famous philosophers. I do not want to mention their names. They are both dead and I do not wish to dishonour their memories. One was a plaintiff in that suit and the other was a defendant. Large sums of money were expended on the litigation and ultimately, at the intervention of late

Dr Shyama Prasad Mookerjee, the suit was compromised to the satisfaction of both the parties.

Therefore, both piracy of books and piracy of records of cassettes should have come, in my humble submission, within the purview of this amending Bill which is being brought after so many years. I request the hon. Minister to think of introducing anti-piracy measures as soon as possible. In January, 1983, the Prime Minister expressed her concern at the increasing piracy in books and music at the World Intellectual Property Conference held at Delhi. Our hon'ble Education Minister also appealed at that Conference to world conscience to try to reduce this scourge of piracy and since she is incharge of this Bill. I would except that as quickly as possible, she would bring before us suitable anti-piracy measures to stop this racket.

With these few words, Sir, I support this Bill.

डा० हंडू प्रताप सिंह (उत्तर प्रदेश) :

आदरणीय उपसभाध्यक्ष जी, आपका मैं हृदय से आभारी हूँ जो आपने मुझको प्रतिलिपिधिकार (संशोधन) विधेयक, 1982 पर विचार प्रकट करने का अवसर दिया है।

मैं उसका समर्थन करने के लिए खड़ा हुआ हूँ। मान्यवर, सर्व-प्रथम मैं राष्ट्र की लोकप्रिय नेता प्रधान मंत्री, भारत सरकार को इस बात के लिए बधाई देना चाहता हूँ कि उन्होंने शिक्षा मंत्रालय का कार्यभार विदुषी, आदरणीय श्रीमती शीला कौल जी को सौंपा है। मुझको प्रसन्नता है कि श्रीमती कौल अपने उत्तरदायित्व और अपने कर्तव्य का निबाह अत्यंत निष्ठा, ईमानदारी तथा परिश्रमपूर्वक कर रही हैं। उन्होंने थोड़े

सं समय में अपनी रुचि तथा अपनी क्षमता का परिचय दिया है।

मैं उन्हें बधाई देता हूँ कि वह शिक्षा मंत्रालय के ऐसे गम्भीर तथा विवादपूर्ण कार्य को अत्यंत कुशलतापूर्ण कर रही है। मैं शिक्षा मंत्री जी को इस बात के लिए बधाई देना चाहता हूँ कि उन्होंने इस युग की आवश्यकता, समय की पुकार, शिक्षा जगत की आंक्षाओं एवं जन-भावनाओं का आदर करते हुए उन्होंने माननीय सदन के समस्त प्रतिलिप्यधिकार (संशोधन) विधेयक, 1982 को प्रस्तुत किया है। प्रस्तुत विधेयक का अध्ययन, चिंतन, मनन करने के पश्चात् मैं इस निष्कर्ष पर पहुंचा हूँ कि यह विधेयक समस्या का सक्षम तथा गहन अध्ययन करके लाया गया है। इस विधेयक के द्वारा प्रतिलिप्यधिकार से संबंधित समस्त समस्याओं के निराकरण का प्रयास किया गया है।

श्रीमन्, विधेयक के उद्देश्य और कारणों के कथन में उन समस्त बातों पर प्रकाश डाला गया है जिन परिस्थितियों में यह विधेयक प्रस्तुत किया गया है। मैं समझता हूँ उसमें प्रस्तुत तथ्य सर्वथा सत्य तथा उचित हैं।

कथन के तीसरे पैरा में अधिनियम में संशोधन का प्रस्ताव किया गया है। वह अपने आप में इतना स्पष्ट है कि उसको पढ़ना अथवा उसकी व्याख्या करना माननीय सदन का समय नष्ट करना है।

श्रीमन्, माननीय सदस्य इस बात से सहमत होंगे कि किसी भी देश का लेखक तथा साहित्यकार उस राष्ट्र का निमाता होता है। किसी भी राष्ट्र का लेखक अपने राष्ट्र के मनोबल को ऊपर उठाने में, राष्ट्र की भावनात्मक एकता को स्थापित करने में, राष्ट्र की अखण्डता, प्रभुसत्ता, आंतरिक सुरक्षा, साम्प्रदायिक

सद्भावनाएं राष्ट्रीय भावना बनाये रखने में बड़ा सहयोग प्रदान करता है। लेखक, कवि, साहित्यकार अपनी रचना के माध्यम से राष्ट्र में एक वातावरण का निर्माण करता है।

अतएव किसी भी राष्ट्र के लिए यह अत्यंत अनिवार्य है कि वह उनके हितों की और अधिकारों की रक्षा करे। मुझको प्रसन्नता है कि सरकार उनके हितों की रक्षा करना चाहती है। विधेयक के द्वारा इस दिशा में एक पग उठाया गया है।

श्रीमन्, विदेशों में प्रकाशित पुस्तकें जो अत्यंत उपयोगी तथा मूल्यवान होती हैं, कुछ प्रकाशक उनको भी प्रकाशित करने का धृणित प्रयास करते हैं, जो सर्वथा एक जघन्य अपराध है। मेरा अनुरोध है कि इस प्रकार की व्यवस्था की जाए कि इस प्रकार से कार्य करने वालों को कठोर दण्ड दिया जाना चाहिए क्योंकि यह प्रश्न केवल चोरी का नहीं है, केवल लेखकों के हितों की रक्षा के लिए नहीं है, वरन् यह प्रश्न है राष्ट्र की प्रतिष्ठा और राष्ट्र की मर्यादा का, राष्ट्र का दूसरे राष्ट्रों के साथ संबंध का। अतएव इसकी ओर विशेष ध्यान की आवश्यकता है।

मुझे आशा है कि इस कार्य में भारत सरकार के गृह मंत्री जी शिक्षा मंत्री जी को सहयोग करेंगे। श्रीमन्, आपकी आज्ञा से मैं कहना चाहूंगा कि विधेयक के द्वारा प्रतिलिप्यधिकार के समस्त पक्षों पर ध्यान दिया गया है तथा उसमें जो त्रुटियाँ हैं, उनको दूर करने का प्रयास किया गया है। मेरा विश्वास है कि इस विधेयक के द्वारा राष्ट्र के लेखकों के हितों की रक्षा होगी। यदि कोई समस्या शेष रह गई हो, तो मुझे आशा है कि भविष्य में वह भी दूर की जा

[श्री चन्द्र प्रताप सिंह]

सकेगी। श्रीमन्, इस सदन में कुछ सम्मानित सदस्यों ने इस विधेयक के संबंध में कुछ विचार प्रकट किये हैं। मैं उस के संबंध में केवल इतना कहना चाहता हूं कि उन्हें इस बात पर प्रसन्नता प्रकट करनी चाहिए थी कि यह आवश्यक विधेयक इस माननीय सदन के समक्ष प्रस्तुत किया गया है। मुझे यह दृष्टिकोण सर्वथा निराशापूर्ण लगता है कि जब कोई महत्वपूर्ण कदम उठाया जाये तब इस प्रकार का दृष्टिकोण अपनाया जाये कि इस में कुछ और किया जाना चाहिए था। मैं तो समझता हूं कि उन्हें इस बात की प्रशंसा करनी चाहिए थी कि अभी तक इसमें जो त्रुटियां थीं उनको दूर करने के लिये प्रयास किया गया है।

अंत में मैं भारत की प्रधान मंत्री श्रीमती इन्दिरा गांधी जी को इस बात के लिये बधाई देना चाहता हूं कि उनको देश के लेखकों की भावनाओं का, उनकी समस्याओं का और उनके अधिकारों का ध्यान है। उन का वह आदर करती हैं कि सदैव उन की सहायता करती आयी हैं। वर्तमान प्रस्तुत विधेयक भी इस बात की पुष्टि करता है।

श्रीमन्, अंत में मैं उर्दू का एक शेर पढ़ कर अपनी बात समाप्त करूंगा :

नज़र में ढल के उमरते हैं दिल के अफसाने,
यह और बात है दुनिया नज़र न पहचाने।

विधेयक में समस्त बातों का उल्लेख किया गया है परन्तु यदि केवल कुछ कहने के लिये कहा जाये तो कोई क्या करे। इन शब्दों के साथ मैं प्रस्तुत विधेयक का हृदय से स्वागत करता हूं और माननीय शिक्षा मंत्री जी को इस बात के लिये हृदय से बधाई देता हूं कि उन्होंने बहुत परिश्रमपूर्वक एक ऐसा विधेयक यहां पर प्रस्तुत किया है कि जो राष्ट्र के जो

लेखक, कवि और साहित्यकार हैं उनका मनोबल बहुत उठायेगा। मैं उन्हें पुनः बधाई देता हूं।

SHRI V. N. TIWARI (Nominated):
Mr. Vice-Chairman, Sir, not only as a Member of Parliament but, also as a writer, I am very happy to speak on this Bill. I congratulate the Government for bringing this amendment to the Copyright Bill, though I am not fully satisfied—and I will explain its reasons later.

The Bill proposed is to help the writers of this country and to provide for certain additional facilities to enable the developing countries to grant compulsory licences for translation and reproduction of works of foreign origin required for purposes of teaching, scholarship, or for purposes of systematic instructional activity. I welcome the Bill, but I cannot help observing that though India is placed seventh in the world in book publishing—and in English publishing India is third in the world; we publish 6,000 titles in English and regional languages—every year, yet not even one per cent of the Indian writers, even of English, which has an international market, can live on their creative art in this country. Writers, including me, blame the publishers for not paying us royalty. And the publishers complain of the State, lack of incentives, help and reading habit in this country. Writers must be saved. But the State must spend on starting of libraries and buying of books if we want to achieve our target, which is the purpose of this Bill. In my humble suggestion, 1,500 books which do not contain violence, sex or communalism must be bought by the State but with signatures of both the writer and the publisher—otherwise, again the profits go to the publisher and the writer does not get his due—if you want to develop this country and help the writers involved in serious creative activity in this country.

One of the clauses, about which I want to make a special mention, is clause 19A. I quote:

"19A. Where any dispute arises with respect to the assignment of, or any of the terms of the assignment of, any copyright, the Copyright Board may, on receipt of a complaint from any of the parties to the dispute and after holding such inquiry as it may deem necessary, pass such orders as it may deem fit, including orders by way of giving permission to the owner of the copyright to revoke its assignment if the terms of the assignment are harsh to him or if the publisher unduly delays the publication of the work or by way of issue of a certificate for the recovery of any royalty due to the owner."

Sir, my first submission is that the Copyright Board must have representatives of the writers as well as of the publishers. A time-limit should be laid down in this clause. Being a writer, while I feel the pain, at the same time, I do not want writers to be again in a circle where they will never get anything. The title published and publicised by someone has the chances of being exploited by other publishers just by tempting the writer when the writer's work has already been popularised in the country, by making a case of harshness. Therefore, this clause must be specific, as I said, about the composition of the Board.

Similarly, the time must be mentioned, that if the publisher does not publish the book in such time, the author can publish it. Similarly, if the writer has not made a complaint for five years or seven years and the book has been published and popularised, he should not have the right to go to another publisher just by saying that he is harsh to him and that the terms are not proper. Therefore, this clause requires definitely very very serious consideration.

My learned colleague has already discussed in detail about the problem of piracy which is a lacuna in this Bill. And I have only to add that it has completely ignored any punishment for piracy, by which the State, the author and the publisher, all suffer and lose.

Till now I was talking of the suffering either of the writer or sometimes of the publisher. Here I am mentioning that if there is any piracy the State loses its revenue. What should have come normally to the State exchequer, which could have been spent for the development and promotion of art and literature even, cannot be collected. Unfortunately the writer in the case of piracy does not get even one penny. And here the publisher also loses something. Therefore, in my humble opinion, if this House has to pass this Bill, it must have some punishment for piracy so that the writers, the publishers as well as the State, all gain and the defaulters are brought to book.

Mr. Vice-Chairman, because this Bill is going to have certain clauses, the known writers, the seasoned writers will have certain benefits; their position may improve. But who will be the sufferers? Nobody has tried to understand as to how to solve their problem. That is, this Bill lacks incentives to the new, young writers. I am afraid, the Bill may be of some help to senior, known writers, but will certainly prove a deterrent to the young and new writers as the publishers will not publish their works for fear of disputes and losses. So, some clause must be incorporated that publishers must publish the works of new, young writers every year before asking facilities from the State for themselves. The time has come when the State must apply its mind to the lot of creative writers in this country. I congratulate the Education Minister for showing awareness of the seriousness of the problem and the urgency of the situation in bringing this Bill. But certainly this Bill requires certain modifications in regard to those

[Shri V. N. Tiwari]

who are indulging in malpractices and for saving the new, young writers, if the Bill is interested in shaping the minds and emotions of our countrymen. I suggest that more grants for libraries be made available, as also subsidised books because a friend of mine, a Member of Parliament, Mr. Jha was mentioning that if it was difficult for him to think of buying a book, what must be the condition of the common man who cannot get food, shelter and clothing in this country. If food, shelter and clothing are essential for us, then certainly for the mind, books are essential. If we think of providing subsidised food, why can't we think of providing subsidised good literature in this country, which will be a more fruitful investment even for shaping and developing this country? (*Time bell rings*) I would not like to hear a second ringing of the bell. I will only submit, and that will be my last sentence: can't we think of, and will the Government not consider, paying royalty to authors on the pattern of issue of books from the library, which is prevalent in many countries of the world? That is, on the number of times a book is issued, the author gets some royalty. We have made this experiment in the case of records which are broadcast from All India Radio. Every time a record is broadcast, the writer, the composer, the maker, everybody gets the royalty. If we start these things, I think the writers, for whom all are concerned, and on whom the country depends, because they are the unacknowledged legislators of this country, will be benefited. I support the Bill, but I request that the Government must own up its responsibility so that the writers can live on their own in this country and they can certainly be involved in the creative cerebral activities. Thank you very much.

श्री रामचन्द्र भारद्वाज (बिहार) :

मान्यवर, कापी राइट का यह किस्सा बहुत पुराना है। सन् 1839 में कापी

राइट की बात उठी थी और ब्रिटिश पैटर्न पर हमारे देश में कापी राइट की व्यवस्था हुई और उसके बाद एक्ट नं० 20, सन् 1847 में बना। फिर सन् 1911 में जब उस पर नई चर्चा हुई तो 1914 में संशोधित रूप में इंडियन कापी राइट एक्ट के रूप में एक अधिनियम हमारे सामने आया। फिर परिवर्तित स्थितियों में जब हमारी संवैधानिक स्थिति बदल और विज्ञान के नये परिवर्तन आए, नई दिशाएं खुली तो हमने नये सिरे से उस पर विचार किया : माइक्रोफिल्मिंग, लीयो फोटोग्राफी मूवी, सिनेमा, और चलचित्र आदि की कल्पना जब नहीं थी तब की बात छोड़कर हम आगे गये। सन् 1952 में जनेवा की कंवेंशन हुई। कापी राइट के बारे में हमने हस्ताक्षर किये। हमारा देश भी हस्ताक्षरकर्ताओं में से एक था। कापी राइट का मूल अर्थ यह लिया जाता है कि जो किताब लिखो जाएंगे उसकी नकल नहीं होने पाएंगे और अगर नकल होगी तो नकल करने वाला सजायाफत होगा। लेकिन स्थिति ऐसी नहीं है। कापी राइट की स्थिति वैसा नहीं है जैसी समझी जाती है। लेखकों, कलाकारों, पाठकों, तथा जन समुदाय के बीच में दलाली के रूप में प्रकाशक आ गये हैं, कापी राइट उनके बीच में एक बहुत बड़ी कड़ी है जिसके आधार पर लेखक अपना हक मांग सकते हैं, उनको अपने हकों की मांग का अधिकार है। मैं इस बिल का स्वागत करता हूं। नये चिन्तन के बाद, नई परिस्थितियों में, नये परिप्रेक्ष्य में, यह बिल हमारे सामने आया है और इस पर विचार किया गया है। नये सिरे से इसमें सोचा गया है कि कलाकारों को, लेखकों को, कवियों को, जिनको रचना प्रक्रिया से होकर गुजरना पड़ता है, इन तमाम लोगों को संरक्षण दिया जाये। इसके लिए मैं

माननीय शिक्षा मंत्री जी का बधाई देता हूँ कि न्यू विधेयक तो बनते रहते हैं, लेकिन बातें वैसी की वैसी रह जाती हैं। आज हमारे देश में लेखकों का दर्जा क्या है? हमारे देश में लेखकों का जो दर्जा है, वह किसी से छिपा हुआ नहीं है। एक बार रवि बाबू उस जमाने में सेकेन्ड क्लास से चल रहे थे। उनसे किसी ने पूछा कि आप क्या करते हैं। उन्होंने कहा कि मैं लेखक हूँ, कवि हूँ। उसने फिर पूछा कि आप क्या करते हैं? रवि बाबू ने फिर बताया कि मैं लेखक हूँ, कवि हूँ। उसने बड़ी विचित्र दृष्टि से उनकी तरफ देखा। रवि बाबू ने इस पर टिप्पण की है कि उसकी आंखों से ऐसा लगता था कि वह कह रहा है कि लेखक और कवि भी कहीं सैकन्ड क्लास में चल सकते हैं। लेखक और कवि होकर कोई अपनी रोजी-रोटी कैसे कमा सकता है? यह स्थिति हमारे देश के लेखकों और कवियों की है। हम उस देश के रहने वाले हैं जिसमें तुलसी ने रामायण जरूर लिखी, लेकिन उसको रा लीटी कभी नहीं मिली। इस देश में कालीदास और बाल्मीकि जैसे अनेक लोगो का भूखों रहना पड़ा। हम भारतेन्दु हरिश्चन्द्र की परम्परा में रहने वाले लोग हैं। हमारे देश में हमारा शोषण होता रहा है हमारा दोहन हुआ है प्रकाशकों के द्वारा। यह क्यों हुआ है? इसका कारण यह है कि हम गरीब रहे, हमारे पास पैसा नहीं था कि हम अपनी पुस्तकों को प्रकाशित कर सकें। हमारे पास संसाधन भी नहीं थे। कि हम अपने हितों की रक्षा स्वयं कर सकें और अपनी पुस्तकों का नकल होने से बचा पायें। मैं आपको एक उदाहरण देता हूँ। श्री रामधारी सिंह दिनकर की पुस्तक जब विश्व-विद्यालयों में लगी तो उनका अपना प्रकाशन संस्थान बैठा रह गया। उनकी

पुस्तकों की नकल बाजार में छप गई और विश्वविद्यालयों को सप्लाई हो गई। उनकी दुकान से मात्र उतनी ही पुस्तकें बिकी जितनी किसी एक कालेज में जा सकती हैं। यह दोहन आज तक चल रहा है। मुझे खुशी है कि नये परिपेक्ष्य में माननीय शिक्षा मंत्री जी ने बहुत सोच समझकर इस विधेयक को प्रस्तुत किया और बहुत से पहलुओं का उन्होंने इसमें समावेश करने की चेष्टा की है।

मैं इस सम्बन्ध में एक ही सुझाव देना चाहता हूँ। अधिक समय न लेकर इस विधेयक के सम्बन्ध में केवल यह करना चाहता हूँ कि यह जो प्रतिलिप्याधिकार बोर्ड को परिकल्पना इसमें है और उस बोर्ड को जो अधिकार देने की बात है या उस बोर्ड को अधिकार सम्पन्न बनाने की बात है, तो मैं माननीय शिक्षा मंत्री जी से आपके माध्यम से निवेदन करना चाहूंगा कि इस बोर्ड को अधिकार देने के सम्बन्ध में आपने उसके 'उद्देश्यों और कारणों का कथन' में कहा है कि :

"यह भी प्रस्ताव है कि अप्रकाशित भारतीय कृतियों का दशा में जहां मूल रचयिता को मृत्यु हो गया है और कृति का प्रकाशन राष्ट्रीय हित में वांछनीय है वहां उसके विधिक प्रतिनिधि को अप्रकाशित सामग्री के प्रकाशन के लिये आवश्यक प्रबन्ध करने के लिये युक्तियुक्त समय दिया जायेगा। यदि वह ऐसा करने में असफल रहता है तो प्रतिलिप्याधिकार बोर्ड स्वामित्व का संदाय करने पर कृति के प्रकाशन का अनुज्ञा देने के लिये सशक्त है।"

[श्री रामचन्द्र भारद्वाज]

मैं इसमें निवेदन करना चाहूंगा कि मैं यहां पर लेखकों और कलाकारों के गरबों के चर्चा कर चुका हूं जो कि मेरे लिये शर्म की बात है, हम सब के लिये शर्म की बात है। हमारे देश के सृजनकर्ता, रचनाकार ऐसे गरबों की स्थिति से गुजरते हैं और तत्काल उनको इससे उबारने के लिये हमारे पास कोई साधन नहीं है। मगर इतना भर तो हम कर सकते हैं जहां वे समय पर, समयानुसार अपनी पुस्तकों का प्रकाशन नहीं करा पाते तो उन पुस्तकों का प्रकाशन यह बोर्ड करे। बोर्ड जो प्रकाशन करे उन पर जो उनके विधिक प्रतिनिधियों को मिलना चाहिये वह मिलता रहे क्योंकि लेखक और कलाकार ने अपने बच्चों के लिये कुछ छोड़ा नहीं। इतना भी नहीं छोड़ा जिससे उनको कृतियां वे छाप सकें। कम से कम उसके बच्चों को उसका कुछ लाभ तो मिलना हो चाहिए।

इन शब्दों के साथ मैं माननीय शिक्षा मंत्री जी को पुनः बधाई देना चाहता हूं कि उन्होंने कलाकारों और लेखकों की दशा पर नई दृष्टि डाली है और इतने गहन चिन्तन और मनन के बाद इस विधेयक को प्रस्तुत किया है जिसमें मेरी दृष्टि से कोई त्रुटि नहीं है। मेरे जो सुझाव हैं वे आगे के नियमों में आ सकते हैं। जो आगे बोर्ड बनेगा उसके अधिकार के अन्दर भी आ सकते हैं।

इन शब्दों के साथ मैं माननीय शिक्षा मंत्री जी को पुनः पुनः बधाई देता हूं जिन्होंने कि यह बिल प्रस्तुत किया है।

SHRI KHUSHWANT SINGH (Nominated): Mr. Vice-Chairman I take it that the primary object of this kind of legislation is to ensure that we have good and useful books and that they are made available to the people at reasonable prices we need

to do this by providing proper incentives to the publishers and creating conditions in which the publishing industry can flourish as well as by giving proper protecting to the authors I assume that the Copyright Act of 1957 or your amendment is designed to achieve these objects. It is quite correct, as the lady Minister pointed out, that we are trying to bring it in conformity with the Paris Protocol of 1971 to break down the monopoly of the Western world on the realm of knowledge. What you have done in this Act is to provide for a Copyright Board with extensive powers. I would like to comment on the main clause about compulsory licensing.

I have no doubt the intentions were very honourable because it is only with this compulsory licensing that we could have broken down this monopoly. But, Mr. Vice-Chairman the lady Minister knows that much water has flowed down the Yamuna in the last 12 years. As a matter of fact practically all essential books which the Indian publishers wanted have already been reprinted under-negotiated licences. I do not think that this sort of compulsory
5 P.M. licensing is now really going to take this matter forward. On the other hand, it has certain hazards which I would like to bring to your notice. One of them is that in getting Indian republishing rights compulsorily, you will convert publishing houses into reprint houses. This is already taking place. They will get licences to print books—it is very much cheaper—without any risk and more profitable for the publishing houses to take up such assignment rather than encourage the Indian writers, the original writers of research, to take up the work. This process is not going to be very favourable to Indian publishing I have no doubt that if we indulge in this process, the other developing countries also will catch on this and they take

these licences and start producing books. In this process, persons who will suffer most will be Indian authors, and other who are coming up in the writing world. Indian publishers will not suffer because they will take up this work as no risk will be involved. If you really want to encourage publishing in this country, you must look to other things rather than thinking compulsory licensing. You have to provide them with good materials, with good paper, with good colour processing machinery which can separate colours, so that they can produce good books, books as good as those being published elsewhere. How is it that books on India, published by your own Government, your own Ministry and the Tourism Ministry are sent to Hong Kong and Singapore for printing? We have got good craftsmen, good craftsmanship and we have got experts. But we do not have the machinery. It is a disgrace. It is a disgrace, that a book on Delhi is now being published in Hong Kong. I think the best way to help publishing is to give them facilities and not indulge them by mollicodding.

Sir, the bill has, also made certain provisions in section 19A for settlement of disputes. I say again that it is a very laudable motive. But I think you should stop short of interfering with authors. The relationship between the author and publisher is purely contractual and you should leave it at that if you feel that authors are being discriminated against then provide for some sample contracts. There are not many forms. Four or five sample contracts will take care of any relationship between the author and the publisher. Except for the rate of royalty and that has nothing to do with the Government or with any State and it is a matter between the author and his publisher if he is a well established author, he will get higher royalties and if he is a new one, since the publisher is taking the risk in providing him, and the author will get a smaller royalty.

The only thing is that we must see that the author gets the royalty in time and that his books is published in time. Otherwise, I would not suggest any powers to be given to the Copyright Board to interfere in this business.

A lot has been said about encouraging authors. Mr. Jha and Mr. Tiwari said something of the subject. Let me strike a discordant note. Honourable Lady Minister,—this addressed to you — in this writing world, only the fittest must be allowed to survive. Do not encourage second-rate. Do not expose your reading public to second-rate literature. If the author has nothing new to tell, if the author has no talent, he will die out as he deserves to die out. For God's sake, do not extend your patronage to second-rate writing and second-rate authors and stop sending those books to libraries and Government departments and expose them to innocent people. If you, Lady Minister can accept a simple rule of thumb in judging the value of a book, let me tell you this: When you pick up a book and see that it is dedicated to the President or the Prime Minister or a Cabinet Minister or yourself or that there is a preface written by the President or the Prime Minister or a Chief Minister or a Cabinet Minister or anyone else, I think it is very safe for you to prohibit its distribution to any library. Since you have been given this responsibility this patronage you should exercise it in such a manner that the reading public is spared from exposure to these kinds of sycophant publications. My friend, Justice Mitra, spoke very eloquently on the problems of piracy, of which there is very little mention in the amended Act. I think it is time that you make it a cognizable offence.

The only other thing I have to draw your attention to is that the amendment is very badly drafted. There are many clauses (I will no bother the House with a list of many expressions used in this amendment) which will open the floodgate of litigation

[Shri Khushwant Singh]

between the publishers and authors. I think this needs to be carefully looked into. If you like, I will meet one of your officials and tell him of our difficulties.

Before ending let me again remind the lady Minister that there are not many people who are really bothered about publishing and authors in this country. You can see it from the poor attendance in this House. You can see it from the empty Visitors' Galleries. You can see it from the press Galleries. The people have entrusted the responsibility to you. It is a greater responsibility. I therefore, request you to reconsider this amendment bill taking note of what all the people have said.

Thank you. (Interruptions).

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Shri Ladli Mohan Nigam.

श्री लाडली मोहन निगम (मध्य प्रदेश) : उपसभाध्यक्ष महोदय, इस प्रति-लिप्यधिकार अधिनियम पर मैं कुछ ज्यादा कहना नहीं चाहता था, लेकिन कुछ बातें हैं जो मुझको खटकी और इस वास्ते मैं इस पर शिक्षा मंत्राली जी का ध्यान आकर्षित करना चाहता हूँ।

सबसे पहले तो मैं यह कहना चाहूंगा कि हिन्दुस्तान में विदेशी किताबों का जो चलन है, यह मैं नहीं कहता कि सब अच्छा ही लिखा जाता है विदेशों में खराब नहीं लिखा जाता है, अच्छा साहित्य आना तो एक तरीके से बंद ही हो रहा है और उसके दाम भी इतने हैं कि वह कोई खरीद ही नहीं सकता है, लेकिन विदेशों का जो गंदा साहित्य है या जिसको हम कहते हैं कि ऐसा साहित्य है जो पढ़ने के काबिल नहीं है, या मान लीजिए उसके बाहरी आडम्बर को देखकर किताबें खरीदी जाती है तो

इस मामले में मैं इतना चाहूंगा कि कोई न कोई तरह की रोक आपको लगानी चाहिए और तभी देश के जो हमारे लेखक हैं उनको कुछ न कुछ आप प्रोत्साहित कर सकेंगे।

जो उनके मानदेय का प्रश्न है, एक चीज उसके बारे में भी कहनी है। एक देश के लेखक की किताब जब कोई विदेशी लेखक दूसरी जगह छाप लेता है तो कुछ देशों में तो उनको पैसा मिल जाता है लेकिन मान लीजिए ऐसे देश में जहां किताबें छप जाती हैं और उसका पैसा उनको नहीं मिलता और उन पर यह बन्धन रहता है कि अगर तुम यह पैसा लेना चाहते हो रायल्टी का तो वहां आओ, वहां खर्च करो तब ही पैसा मिल सकता है तो इसके लिए आपके पास कोई प्रावधान नहीं है। लेखकों के प्रति सबने चिंता प्रकट की लेकिन लेखक के मरणोपरांत जो रायल्टी है वह उनको नहीं मिल पाती है। उसके लिए आपके पास कोई प्रावधान नहीं है कि आप इसको उसको दिला सकें। मैं दो तीन लेखकों को जानता हूँ, अच्छे लेखक हैं, भारतीय भाषाओं के लेखक हैं उनकी किताबें विदेशों में ज्यादा छपीं, बहुत सी भाषाओं में छपीं लेकिन मरने के बाद अब वह वापस जाकर अपनी रायल्टी का उपभोग नहीं कर सकते हैं। उनको रायल्टी नहीं मिल सकती है। एक ऐसे मामले को मैं प्रधान मंत्री के समक्ष लाया। उनकी बड़ी अनुकम्पा रही कि उन्होंने तत्काल कुछ न कुछ करने का आश्वासन दिया। अब वे कर पाये या नहीं कर पाये, मुझे पता नहीं है। एक बहुत बड़े अच्छे आंचलिक और हिन्दुस्तान के विद्वान लेखक थे, भारतीय भाषाओं के लेखक थे श्री फणीश्वर नाथ रेणु, उनके बारे में भी यही है, लाखों रुपया उनका रायल्टी

का बाहर पड़ा है आपके पास कोई प्रावधान नहीं है उसका कि ऐसे लेखकों की जिम्मेदारी सरकार लेकर उनको रायल्टी दिला सके। कल हिंदुस्तान का लेखक बाहर विदेश में बहुत पापुलर हो जाता है मतलब उसका प्रचार हो जाये और उसके बाद उस बेचारे को पैसा नहीं मिले तो इसके लिए आपके पास कोई प्रावधान नहीं है। एक तो मुझे यह निवेदन करना है कि आपका लिप्यधिकार अधिनियम इतना लंगड़ा है कि इसमें कहीं कोई चीज नहीं है। मुझे ऐसा लगता है कि आपके उस विभाग ने जिसने इसको तैयार किया है, इसमें उसने इतने ज्यादा गलियारे ढूँढ लिये हैं कि कल सिवाय मुकदमेबाजी के और कोई चीज नहीं रहेगी। सीधा हो, डर लगे कानून का, लोग उसके साथ बंध सकें, ऐसी कोई चीज इसमें नहीं है।

एक और चीज की तरफ मैं आपका ध्यान दिलाना चाहूँगा और आप ऐसा कोई प्रावधान करना चाहते हैं और कर सकते हैं कि ऐसे किसी लेखक का जो मर गया है और उसके बाद उसकी कोई रचना चलती रहती है, उस पर कोई कौद आप लगाने जा रहे हैं कि नहीं? मैं तो यह चाहूँगा कि कोई भी लेखक जो समाज में चल पड़ता है, उसके न रहने के बाद, बीस वर्ष के बाद या पच्चीस वर्ष के बाद—आप सीमा बना लो, तीस वर्ष बना लो, जो भी उसके हिताधिकार हैं, वह सरकार को चले जायेंगे, समाज को चले जायेंगे क्योंकि वह समाज का लेखक है और चलता रहता है। पौराणिक लेखकों की या उन कथाओं की जिनकी सबसे ज्यादा—मैं समझता हूँ कि दुनिया में सब से ज्यादा अगर कोई किताब छपी गई होगी आज तक, तो रामायण छपी गई होगी, या महाभारत

गीता छपी गई होगी। अब इनकी रायल्टी किसके पास जाती है?

एक माननीय सदस्य : भगवद्गीता।

श्री लाडली मोहन निगम : वही मैं कह रहा हूँ कि उसकी रायल्टी किसके पास जाती है? क्या वह अधिकार समाज का नहीं है, जो समाज पढ़ता है। कोई प्रेस छापे, तो सरकार को इस पर एक निश्चित नीति बनानी चाहिए कि ऐसे क्लासिक्स ऐसे काम जो एक सदी से नहीं, दो सदी से नहीं, हजारों साल से चले आ रहे हैं और चलते रहेंगे जब तक दुनिया जिंदा है, उनके अधिकार किसके पास हैं, उसके लिए आपके पास कोई प्रावधान नहीं है। मैं छाप करके उसमें बड़ी आसानी से अरबों-खरबों रुपया कमा सकता हूँ।

इसी तरह से पुरातत्व की जो चीजें छपी हैं, पुरानी किताब है, उसको लाकर के किसी न किसी तरीके से छाप दिया, उसका अधिकार किसके पास है। ऐसी किसी किताब को, जो तीस या चालीस वर्ष पहले छपी थी और उसके बाद उसका कोई संस्करण नहीं छपा और आज चालीस-पचास वर्ष के बाद जो भी उस किताब का संस्करण छपता है, उस पब्लिकेशन को जो भी छापे उसका भी जो प्रतिलिप्यधिकार है, वह सरकार को मिलना चाहिए, यह मैं चाहता हूँ कि इसके लिए उसमें कोई प्रावधान नहीं किया गया है और वह किताब बड़ी मंहगी छपती है, लेकिन जो विद्यार्थी खोज के लिए या शोध के लिए का करना चाहता है, उसके लिए उ स्वाभाविक है कि वह किताब लेनी पड़ती है। एक किताब जो उस जमाने कुल पचास रुपये में छपी होगी, उस

[श्री लडला माहन निगम] :

दाम आज पांच सौ रुपया होता है और उसको लेना पड़ता है। उसका कोई प्रति-लिप्यधिकार रायल्टी का आपके पास नहीं है। उस लेखक को तो हो ही नहीं सकता है क्योंकि वह जिंदा नहीं है।

तो उसका भी कुछ प्रावधान इसके अंदर होना चाहिए। श्रीमन्, जो इंटरनेशनल सम्मेलन पारी में हुआ था, जिसको पढ़े-लिखे लोग पेरिस कहते हैं, पारी में जो वह सम्मेलन हुआ था 1971 में, जिसमें इंटरनेशनल लेखकों ने तय किया था, हमको मूल रूप में उसको दूसरे तरीके से कबूल करना चाहिए और यह भी होना चाहिए कि अगर जो दुनिया में उसको नहीं मानते हैं, कबूल करते हैं और अपने देश को उससे अलग रखते हैं ऐसे इंटरनेशनल मंच से, वहां तो बैन हो जना चाहिए कि कोई भारतीय लेखक उसे अपनी किताब नहीं देगा, जैसे कि साऊथ अफ्रीका के लिए बाकायदा करते हैं, इसी तरह से इन चीजों पर भी करना चाहिए। यह मेरा मतव्य है। इस पर आपको सोचना चाहिए।

[उपसभाध्यक्ष (श्री-आर० रामकृष्णन) पीठासीन हुए]

नहीं है तो ऐसे लेखक जिनकी किताबें बाहर चली जाती हैं और जिनकी चीजें छपनी हैं उनको मरणोपरान्त कुछ मिल नहीं पाता है।

श्रीमन्, यह जो लेखन से छापना, किसी चीज को पुनः मुद्रण करने में, जिसको आप रिप्रिंट कहते हैं, इसमें जो डकैती चल रही है (समय की घंटी) उसके लिए आपके पास कोई प्रावधान नहीं है, जिसको लोग पाइरेसी कहते हैं। यह डकैती से रोक दी जाए। उसका एकाध तरीका हो

सकता है कि ऐसी किसी चीज को खास करके जैसे मैं चाहता हूं कि भारतीय संस्कृति का पुनर्गर्भ हो, तो संगीत के बारे में तो मैं जरूर निवेदन करूंगा कि मंती जी आपको इस पर पहल करनी चाहिए। अगर आपको उसके लिए वित्त मंत्रालय से भी करना पड़े, तो करिए।

मिसाल के लिए मैं कहना चाहूंगा कि जो क्लासिकल संगीत है, उसके जितने भी रेकार्ड छपते हों, वह ज्यादा बिकें, चलें, उसकी पाइरेसी न हो पाए, उसके लिए मैं जरूर चाहता हूं क्योंकि बहुत से जो पुराने लोग हैं, उनके तो गाने-बाने चलते हैं, उनको तो कुछ मिलता नहीं है।

सवाल यह है कि उनके जो रेकार्ड छपते हैं, उन पर जो सेल्स-टैक्स और एक्साइज लगती है, उसको आप खत्म कराइये। क्योंकि अगर एक मर्तबा उस पर से सेल्स टैक्स और एक्साइज ड्यूटी खत्म हो जायगी तो हो सकता है कि उनका दाम कम हो जाये और उन का चलन बढ़े और तब जनता उससे फायदा उठा सकती है। यह एक तरीका हो सकता है। तो कोशिश कीजिए कि जैसा कि लोग कहते हैं कि संगीत प्रचारित हो गया है तो उस से रायल्टी उनको मिलती रहे यह जरूरी है और सरकार जो भी टैक्स लेती है उसको वह वापस करे।

अब प्रश्न यह है कि किताबें छपती हैं। कितनी किताबें छपी जायें और कितनी न छपी जायें इस पर कोई बंधन नहीं लगा सकता। लेकिन इतना जरूर कर सकते हैं कि ऐसी कोई चीज जो कीमती है उसके लिये भले ही राज्य सरकारें करें या केन्द्र की सरकार करे, पहले आ चुकी है और फिर छपती है तो

उस की कुछ प्रतियां सरकारें स्वयं लें। मैं साहित्य अकादमी की बात नहीं कर रहा हूं क्योंकि वह जिन पुस्तकों को पुरस्कृत करते हैं वह कैसी होती हैं इस बारे में डिस्प्यूट है लेकिन ऐसी पुस्तकों जो सरकार से हट कर दूसरे तरीके से पुरस्कृत होती हैं जैसे मंगला पुरस्कार है या साहित्य ज्ञान पीठ पुरस्कार है या तमिलनाडु में ऐसे कई पुरस्कार हैं, जो विभिन्न भाषाओं में पुस्तकों को पुरस्कृत करते हैं उन पुरस्कृत पुस्तकों को अनिवार्यतः जब वे छपती हैं तो उन के लिये आप निश्चित कर सकते हैं कि सरकार उन को खरीदे। लेकिन अन्य लेखकों की जो कृतियां छपती हैं उन को अपनी पुस्तकें बेचने का कोई यह रास्ता नहीं है। तो जिन को आप पुरस्कार देते हैं उन की पुस्तकें लाइब्रेरीज में या सार्वजनिक वाचनालयों में अनिवार्य रूप से ली जायें। यदि ऐसा किया जाय तो मैं समझता हूं कि आप उन पुरस्कृत लेखकों को कुछ जीवन दे सकेंगे।

अंतिम बार कह कर मैं अपनी बात खत्म करूंगा। न्यूनतम रायल्टी का प्रश्न आया। उसे आपको तय करना है कि इस से कम कोई मानदेय नहीं बनेगा और अगर आप यह तय करते हैं तो कुछ हद तक आप लेखकों के जीवन में सुधार ला सकेंगे।

अब रहा सवाल बंधन का। लेखन पर किसी तरह का बंधन मैं कबूल करने के लिए तैयार नहीं हूं और न कोई बंधन होना चाहिए। वह उन का मूल-भूत अधिकार है। अगर कोई आदमी बहुत खराब लिखता है तो वह चलेगा नहीं। लेकिन मैं लेखकों पर कोई पाबन्दी नहीं चाहता और इसके लिए जो उदाहरण दिये गये हैं नंगा साहित्य के या प्रोरेनोग्राफ के यह सब चलते हैं। जब से बंधन डाला है तब से और पहले से भी

चलते हैं और डकैतो का काम शुरू हो हुआ है। लेकिन लेखन के बारे में आप किसी तरह का बंधन न लगायें। यहाँ मुझे निवेदन करना है और मैं समझता हूं कि आप इस को पूरा करने की कोशिश करेंगे। अगर आप इस में ऐसे ही संशोधन कर सकते हैं तो ठीक है लेकिन यह लिव्यधिकार अधिनियम है। यदि यह 13, 14 साल तक चलता रहा है तो अभी 3, 4 महीने में यदि कुछ समय लगा कर इस को देख लें और गंभीरता से और इस को एक सिलेक्ट कमेटी को भेज दें ताकि अच्छी तरह से रह संशोधित हो सके तो कोई हर्ज नहीं होने वाला है। नहीं तो बार-बार इस में तरमोम होतों रहेंगे और इसका कोई महत्व नहीं होगा।

SHRI B. SATYANARAYAN REDDY (Andhra Pradesh): Mr. Vice-Chairman, Sir, I welcome the introduction of this Copyright (Amendment) Bill, 1982, and at the same time I would like to give a few suggestions. I would submit that eminent writers on art, science literature, music and poetry should be encouraged by all means. And eminent writers should get handsome royalty for their works and the publishers should not be given any change to exploit the writers. It is known that most of the publishers exploit the writers. And the poor writers, however, eminent they may be, will not be paid any royalty on their works. Therefore, so far as the writers are concerned, we must see that they get sufficient amount for their writings as royalty. There are a number of publications as Mr Nigam has said. There should not be any restriction to express their views or ideas. But, at the same time neither the Government, nor the publishers nor the boards should encourage third-rate books or those publishers who publish third-rate books. So far as amendment to section 32 is

[Shri B. Satyanarayan Reddy] concerned, the first provide which has been added, says:

Provided that where the translation of any such work which is not an Indian work is required for the purposes of teaching, scholarship or research, such application may be made after a period of three years from such publication.

So far as this period of three years is concerned, I think it is too long a period and such eminent books should not be withheld from the public for such a long period of time. Therefore, this period may be reduced to six months or one year, at the most. The second proviso reads:

Provided further that where the translation referred to in the preceding proviso is in a language not in general use in any developed country, such application may be made after a period of one year from such publication.

Here also, instead of one year, a period of three months or six months may be provided and not more than that. If you reduce the period, that will be helpful so far as readers are concerned.

Lastly, I would like to say something about the problem of piracy. As Mr. Khushwant Singh has suggested, stringent measures must be taken against those who indulge in this piracy. As a matter of fact, if it is possible, it may be made a cognizable offence.

With these remarks, I welcome the passing of this Bill.

श्री इयातुल्ला अंगारी (नाम निर्देशित):

जनाब वाइस चेयरमैन साहब, मैं पहले अपने कुछ तजुर्बे बताऊंगा और उसके बाद ही इस बिल पर तफसरा करूंगा।

मेरा पहला तजुर्बा तो यह है कि 1938 में मैंने बच्चों के लिए कुछ कहानियां लिखी थीं। हमारे यहां जिन, परे और राक्षसों के कहानियां चलती हैं। उसमें कोई सबक होता है बच्चों के लिए। कहीं बुराई होता है, कहीं

सौतेलापन को बढ़ावा दिया जाता है, वहीं और तरह को बातें होती हैं; तो एक अच्छे मकसद के लिए कहानियों को बनाना चाहिए। मैंने एक कहानी लिखी थी। उसका नाम काला राक्षस था। एक दफा मैं बच्चों के साथ किताब लेने के लिए एक लाइब्रेरी में गया तो बच्चे ने कहा कि यह तो आपके किताब लगता है। मालूम हुआ कि दिल्ली के एक राइटर ने लिखी है वह हिन्दू में। मुझे बहुत ताज्जुब हुआ। उसके बाद जब मैंने पता लगाया तो उसके लिए केस चलाया लखनऊ में। बाद में मालूम हुआ कि बंबई का एक हिन्दू मेगजन ने उस कहानी को छपा था। उसने लिखा था कि यह कहानी एक जर्मन राइटर ने लिखा है, उसके लिए उसको नोबुल प्राइज भी मिला। केस चला लखनऊ में और आखिर में कोर्ट का डिटेंशन था कि चूंकि कापीराइट ऐक्ट का उल्लंघन दिल्ली में हुआ है, इसलिए दिल्ली में मुकदमा चलाया जा सकता है। मेरे पास इतने पैसे नहीं थे कि मैं मुकदमा चलाता।

दूसरा किस्सा यों है। मैं "कौमी आवाज" में मेजबान के नाम से एक कालम लिखता था और रायटर्स के खिलाफ मजमून लिखता था। हिन्दू मुसलमानों में लखनऊ में बड़ा झगड़ा हुआ था, कि सब जगह रायटर्स होते हैं, हम क्या नामदें हैं? और दुनिया हम पर हंसती है। तो हिन्दू मुसलमानों ने तय किया कि रायटर्स ज़रूर हों। एक दिन मुकर्रर हो गया कि वहां रायटर्स होंगी। हिन्दू मुसलमानों को और मुसलमान हिन्दुओं को अपने साथ क्यों रखे, इस पर बहस हो गई। हिन्दुओं में एक मुसलमान था और मुसलमानों में एक हिन्दू था। बड़ी मुश्किल से तय हुआ कि हिन्दू एक तरफ हो जायें और मुसलमान एक तरफ। उसके बाद एक साहब लड़ने के लिए

आए, उन्होंने लाठी उठाई। जैसे ही लाठी उठाई तो सब कहने लगे; बाह, बाह। उन्होंने लाठी नीचे रख दी और उसके बाद सलाम करने लगे। मैंने देखा कि डेढ़ साल हुआ मेरी पहली की पूरी की पूरी किताब छाप दी दिल्ली में और सरकारी इनाम भी हासिल कर लिया। मुझे बड़ी हैरानी हुई। मेरी हिम्मत नहीं हुई कि मैं दिल्ली में आकर केस लड़ूँ। केस लड़ने का लम्बा प्रोसेस है। केस के लिये वकील से मिलो, उसके पास कई चक्कर लगाओ यह ठीक है कि कहानी के सारे प्रूफ मेरे पास मौजूद हैं, वे सब मैं पेश कर सकता हूँ लेकिन मैं कैस नहीं कर सकता। पहले मामले में यह हुआ कि पहला मजमुआ 1945 में पाकिस्तान में छपा। उसका डिविजन हो गया। लोगों ने समझा कि यह पाकिस्तानी है इसका लेख छाप दो। वह छाप दिया गया लेकिन उसका एक पैसा भी मुझे नहीं मिला। पाकिस्तान यहां से करीब ही है, थोड़ी दूर पर है लेकिन यहां उर्दू किताबों की कम्पलीट पाइरेसी होती है। वहां पर एक पब्लिशिंग हाउस है—दारुल मुसन्नफीन जहां इस्लामी की बड़ी से बड़ी किताबें छपती हैं। वह भी पाकिस्तान में छाप दी गई। जहां भी मेरी किताब पब्लिशर्स ने छाप दी। 15-20 लाख रुपये उसके पड़ते हैं, सलाना छपती हैं और जाती रहती है। हो सकता है पब्लिशर्स ने लाख डेढ़ लाख रुपया दे दिया हो।

दो बातें मैं कहना चाहता हूँ मिनिस्टर साहिब के सामने। एक तो यह कि ऐसी पाइरेसी किताबें छापी जाती हो तो चर-पांच हजार रुपया मैं केस लड़ने के लिये खर्च नहीं कर सकता। मेरी किताब “काला देव” नाम देकर छाप दी। मैं लखनऊ में रहता हूँ। केस लड़ने के लिये मुझे यहां दिल्ली में आना पड़ता, तीन-चार दफा दिल्ली में आता,

वकीलों से मिलता, होटल में आकर ठहरता यह एक लम्बा प्रोसेस था। उस वक्त मैं एम० पी० भी नहीं था। इसलिये मैं केस भी नहीं लड़ सकता था। आज तो मैं एम० पी० हूँ लेकिन इसकी भी हालत अच्छी नहीं होती है। मैं वैसे भी केस लड़ने से घबराता हूँ हालांकि यहां मेरे पास सब कुछ मौजूद है।

मैं दो-तीन बातें और कहना चाहूंगा। मेरे दोस्त ने बताया कि राइटर्स को प्रोटेक्शन की जरूरत है। लेकिन अफसोस की बात है कि जितनी गिरोहबन्धियों हिन्दुस्तान में पाई जाती हैं वे सब राइटर्स में पाई जाती हैं, कहकर बुरा लगता है। मैं भी उसी कमेटी का हूँ। गिरोहबन्धियों की किताबें चलती हैं। मैं अपनी किताबें छापूंगा, दूसरों की नहीं। इस चीज को देखना जरूरी है कि अच्छा लिटरेचर सामने आए और इसके लिये प्रोटेक्शन की जरूरत है। दूसरी बात यह है कि पब्लिशर्स खूब अच्छे तरीके से पैसा लेता है, खूब पैसे खाता है और खाने के बाद थोड़ी सी पेमेंट करता है। लखनऊ में एक बड़े राइटर हैं। उन्होंने एक नावल लिखा। वह मर गये। थोड़ा बहुत पैसा उसकी बेवा को मिला। हम सब जानते हैं कि वह नावल बहुत बिका, बहुत आमदनी हुई लेकिन कोई कुछ नहीं कर सकता था। मैं ज्यादा लम्बी बात नहीं करूंगा (समय की घंटी) सिर्फ एक बात और कहूंगा लाइसेंस के मुतल्लिक, बाहरी किताबों के मुतल्लिक। मैंने देखा है कि बाहर भी राइटर राइटर होता है। उनकी जेब में हम को डाका नहीं डालना चाहिये। उनकी आमदनी हम को नहीं छीननी चाहिये। बहुत सी किताबें अच्छी छपी गई हैं। साइंस क्या हर सब्जेक्ट पर अच्छी किताबें छपी हैं। तरक्की हो रही है। किताबें बेहतर से बेहतर लिखी जा रही हैं। राइटर्स अच्छे पैदा हो

[श्री ह्यातुल्ला अन्सार]

रहे हैं इसलिए तीन साल या एक साल कम कर दें तो बुरा करेंगे और निकाल दें तो भी बुरा करेंगे।

एक बात और कहूंगा कि पाइरेसी के बारे में आनरेबल मेम्बर ने एक अच्छी राय दी। जब चोरी कागनीजेबल आफेंस है तो पाइरेसी क्यों नहीं होगी। यह खुली हुई चीज है कि अगर वह प्राइमाफेसी केस बन जाता है तो मेरा ख्याल है कि कोगनीजेबल आफेंस बना देना चाहिये। अगर चोरी को रोकना है और वाकई काम को आगे बढ़ाना है तो कोगनीजेबल आफेंस इसको आपको बना देना चाहिये।

SHRIMATI SHEILA KAUL: Sir, I am grateful to the hon. Members who have participated in the debate who have taken such keen interest and have also welcomed the Bill. I would like to say that this Bill up-dates the law in the light of Paris Act of 1971. It also safeguards the authors' interest by opening up the possibility of disputes being decided through summary and inexpensive Copy Right Board procedures.

It also ensures free flow of knowledge through compulsory licensing of foreign books, as I said in my opening remarks. But some hon. Members have mentioned that this is not a comprehensive Bill. I would like to say that this Bill is for the specific purpose of implementing the provisions of the Paris texts, that measures be taken to check piracy. It has been mentioned a number of times as to what measures are being taken to check this piracy.

Actually, the problem in regard to the piracy of books, videos, tapes etc. and its implications are being considered. There are many implications in this and these are being worked out. The Bill seeks to insert a new section 19A, which provides that any of the parties to the dispute

can approach the Copyright Board, where a piracy takes place. For instance, the hon. Member has just mentioned that his book was published in Pakistan. In such a case, the aggrieved party can very well write to the Copyright Board of Pakistan, which is also a member of the Berne Convention. Therefore, in the main purpose of this is that, wherever piracy takes place, if the country concerned is a member of the convention, the aggrieved party can approach the Copyright Board of that country. But what happens is that we ourselves do not know that things like this exist. The hon. Member, Shri Hayat Ulla Ansari mentioned about his experience. I have also a very sad experience. My husband was a scientist. He discovered underground water in the desert of Rajasthan. This was many many years ago. We have got photographs showing water being taken out, pipes showing the flow of water, engineers standing and so on. After many years, about 15 years afterwards, the whole thing was published in a scientific journal. Piracy had taken place. Some scientist had written that it was his work and he had the audacity to print that photograph where my husband was standing. This is how piracy had taken place. When my husband wrote to the journal saying that it was his work, the journal wrote to that man who sent the photographs and the article, which was written by my husband many many years ago, with little alterations. That person, that scientist, wrote to say 'Prof. Kaul, you are an internationally known figure; what harm will it do to you if I share some of your glory' Look at this height of piracy. Actually, if we had known that there were things like this existing, I am sure, we would have taken up the matter with the Copyright Board. But we were not aware of this. Therefore, we go by default because we are not aware of the different laws which exist.

Now, learned Members have expressed their views on this Bill. Shri Jha has referred to the rights of the

living and the dead authors and a minimum royalty to be paid. One of the major objectives of the Bill is to safeguard the interests of the authors as in the new section 19A and the question of payment of minimum royalty is a question of a contract between the author and the publisher. The general question of hardship of the author *vis-a-vis* publisher is being taken care of in this Bill. Regarding Maharashtra, Ramayana or Holy Quran, I think these are the works of the public domain where usually no royalty is payable. (Interruptions).

SHRI SHIVA CHANDRA JHA: Who gets the royalty?

SHRIMATI SHEILA KAUL: Some hon. Members have also mentioned why there was delay in bringing about this Bill when it was passed in 1971. In this connection, I would like to mention that the Paris Text of 1971 came into force in October, 1974 and the proposed amendments in this regard were submitted to the Cabinet in 1976. And you know what happened thereafter. There was change of government. They were again submitted late in 1977, after a year and then there was a change. In 1980 the matter was taken up again. It took some time to process some fresh proposals in consultation with the concerned Governments. A question was also asked about how many times the Copyright Board meets. Well, it meets on average once in two months.

Then there are some very serious things that we have to look into. These are the video piracy and the piracy of the books. As I mentioned we are going to examine all these things and try to find out ways and means to stop them.

Shri Handique also made a point about the compulsory licensing system, that it should not spoil the market for Indian authors. The books to be brought out under compulsory licensing system would be only those books which are not available in India at reasonable price.

Mr. Sen has mentioned that the Bill is of a specific kind for updating

law in the light of the Paris Text. He also mentioned about expensive litigation. A reference to Copyright Board with a summary procedure takes care of this. But I am very happy that Shri Mitra has referred to the limit of three year and one year for compulsory licensing.

These limits are in line with the Paris Text and thus we have no option to this. He also mentioned about the anti-piracy Bill. As all the hon. Members are concerned about this and so is the Government, we are seriously thinking about it.

Mr. Gupta made a suggestion that the words "in the absence of any agreement to the contrary" occurring in clause (dd), page 3, line 5 of the Bill should be omitted on the ground that this will help famous authors and writers to dictate their terms. It may be mentioned that if these words are omitted, the authors will not be left with any right to specify their terms and copyright will straightway be vested in the body corporate.

Shri Ram Lakhan Prasad Gupta commented that the authors are being exploited and there is no provision for the authors who write songs. I would like to mention that adequate safeguards for authors are provided in the proposed amendment 19(a). Song writers are authors and they are already covered under the existing Copyright Act. Further safeguards are being provided in amendment 19(a). The Copyright Office is being set up under the proposed amendment and its functions include taking care of international aspects of copyright.

The basic responsibility of the author in respect of translation of his work is already protected under the existing Act. Once a work is translated, its translator acquires a separate copyright of the translation.

Shri Tiwari made a plea for payment of royalty to authors on lending of books to readers from the libraries. While the intention behind the suggestion can be appreciated, we feel

[Shrimati Sheila Kaul]

that in a country like India where efforts are being made to promote book-mindedness, it will not be desirable—certainly not at this stage.

Shri Khushwant Singh said—and so also Mr. Nigam—that the drafting and phraseology were not really good. I would like to inform them that phraseology is based on the Berne and Paris texts and if any suggestions are to be given to make things precise, these will be welcomed and if any hon. Member wants to send us any suggestions...

श्री शिव चन्द्र झा : सेलेक्ट कमेटी में भेज दीजिये । 6 महीने में कौन सा आसमान टूटने जा रहा है, कौन आसमान टूटने जा रहा है, क्या हो जाएगा ?

श्रीमती शीला कौल : देखिये न तो आसमान टूटेगा और न जमीन फटेगी लेकिन हमारे जो बच्चे हैं उनको बहुत तकलीफ हो रही है ।

श्री शिव चन्द्र झा : कोई तकलीफ नहीं होगी ।

श्रीमती शीला कौल : तकलीफ हमारे बच्चों को हो रही है । हमें पता नहीं बच्चों को तकलीफ हो रही है । हम भी बड़े हैं और आप भी बड़े हैं । यही तो मुश्किल है ।

उपसभाध्यक्ष (श्री आर० रामकृष्णन्) : आपने डिटेल् में जवाब दिया है ।
The only thing is that you have not mentioned about it being made a cognizable offence.

SHRI B. SATYANARAYAN REDDY: We have said that piracy should be made cognizable offence. In this regard, you have not said anything.

SHRIMATI SHEILA KAUL: We will look into it and see. (Interruptions)

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): She says, she will look into it.

SHRIMATI SHEILA KAUL: Things cannot be done by my saying here what can be done because we have to take the views of different quarters.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Have it examined in depth.

SHRIMATI SHEILA KAUL: And finally, I do not agree to the amendment of Shri Jha that it should be referred to a Select Committee.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): I shall first put the amendment of Shri Shiva Chandra Jha to vote.

The question is:

"That the Bill to amend the Copyright Act, 1957, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:

1. Shri R. R. Morarka.
2. Shri Biswa Goswami.
3. Shri Shridhar Wasudeo Dhabe.
4. Shri Nepaldev Bhattacharya.
5. Shri Dipen Ghosh.
6. Shri Rameshwar Singh.
7. Shri G. C. Bhattacharya.
8. Shri Suraj Prasad.
9. Shri Hari Shankar Bhabhra.
10. Shri Kalraj Mishra.
11. Shrimati Mohinder Kaur.
12. Prof. Sourendra Bhattacharjee.
13. Shri Shiva Chandra Jha.

With instructions to report by the first week of the next Session."

The motion was negatived.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): I shall now put

the motion moved by Shrimati Sheila Kaul to vote.

The question is:

"That the Bill to amend the Copyright Act, 1957, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 7 were added to the Bill.

Clause 8—Amendment of section 17

SHRIMATI SHEILA KAUL: Sir, I move:

3. "That at page 2, line 42, for the words 'such person' the words 'the person who delivers such address, or speech, or, as the case may be, the person on whose behalf such address or speech is delivered' be substituted."

4. "That at page 3, lines 4-5, for the words 'any body corporate, such body corporate' the words 'any public undertaking, such public undertaking' be substituted."

5. "That at page 3 for lines 7 and 8, the following be substituted, namely:—

'Explanation.—For the purposes of this clause and section 28A, "public undertakings" means—

(i) an undertaking owned or controlled by Government; or

(ii) a Government Company as defined in section 617 of the Companies Act, 1956 (1 of 1966); or

(iii) a body corporate established by or under any Central, Provincial or State Act."

The questions were put and the motions were adopted.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): The question is:

"That clause 8, as amended, stand part of the Bill."

The motion was adopted.

Clause 8, as amended, was added to the Bill.

Clauses 9 and 10 were added to the Bill.

Clause 11—Insertion of new section 28A

SHRIMATI SHEILA KAUL: Sir, I move:

6. "That at page 3, line 29, for the words 'body corporate' the words 'public undertaking' be substituted." *The question was put and the motion was adopted.*

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): The question is:

"That clause 11, as amended, stand part of the Bill."

The motion was adopted.

Clause 11, as amended, was added to the Bill.

Clause 12—Insertion of new section 31A

SHRIMATI SHEILA KAUL: Sir, I move:

7. "That at page 3, line 35, for the words 'unpublished work' the words 'Indian work referred to in sub-clause (iii) of clause (c) of section 2' be substituted."

8. "That at page 4, lines 22-23, for the words 'an unpublished Indian work, if the original author is dead, the Copyright Board' the words 'a work referred to in sub-section (1), if the original author is dead, the Central Government' be substituted."

"That at page 4, line 28, for the words 'the Copyright Board under sub-section (6), it may' the words

[Shrimati Shiela Kaul]

'the Central Government under sub-section (6), the Copyright Board may' be substituted."

The questions were put and the motions were adopted.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): The question is:

"That clause 12, as amended, stand part of the Bill."

The motion was adopted.

Clause 12, as amended, was added to the Bill.

Clause 13—Amendment of section 32.

SHRIMATI SHEILA KAUL: Sir, I move:

10. "That at page 4, for lines 34-35, the following be substituted, namely:—

'(a) in sub-section (1), after the words 'in any language', the words 'after a';"

11. "That at page 4, for lines 38 to 45, the following be substituted, namely:—

'(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), any person may apply to the Copyright Board for a licence to produce and publish a translation, in printed or analogous forms of reproduction, of a literary or dramatic work, other than an Indian work, in any language in general use in India after a period of three years from the first publication of such work, if such translation is required for the purposes of teaching, scholarship or research:

Provided that where such translation is in a language not in general use".'

12. "That at page 4, after line 47, the following be inserted, namely:—

'(c) in sub-section (2), for the words "such application", the words "application under this section" shall be substituted."

13. "That at page 5, line 1, for the brackets and letter '(b)', the brackets and letter '(d)' be substituted.

14. "That at page 5, line 14, for the words 'either of the provisos to sub-section (1)' the words 'sub-section (1A), be substituted."

15. "That at page 5, for lines 33 and 34 the following be substituted namely:—

'(1) for the words "Provided that no such licence", the words "Provided further that no licence" under this section shall be substituted;"

16. "That at page 6, lines 10-11, the brackets and words '(not being an application under either of the provisos thereto' be deleted".

17. "That at page 6, line 17, for the words 'the first proviso to sub-section (1)' the words 'sub-section (1A) (not being an application under the proviso thereto)' be substituted."

18. "That at page 6, line 18, the word 'second' be deleted."

19. "That at page 6, for lines 28 to 31, the following be substituted, namely:—

'(ccc) in the case of any application made under sub-section (1A),—

(i) the name of the author and the title of the particular edition of the work proposed to be translated are printed on all the copies of the translation;

(iii) if the work is composed mainly of illustrations, the provisions of section 32A are also complied with;".'

20. "That at page 6, line 32, for the brackets and letter '(c)' the brackets and letter '(e)' be substituted."

21. "That at page 6, line 36, for the words 'the provisos to sub-section (1)' the words 'sub-section (1A) and published in printed or analogous forms of reproduction' be substituted."

22. "That at page 7, lines 1-2, for the words 'shall, so far as may be' the words 'in so far as they are relatable to an application under sub-section (1A), shall, with the necessary modifications' be substituted."

The questions were put and the motions were adopted.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): The question is:

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill.

Clause 14—Insertion of new sections 32A and 32B.

SHRIMATI SHEILA KAUL: Sir, I move:

23. "That at page 7, for lines 33 to 37, the following be substituted, namely:—

"32A. (1) Where, after the expiration of relevant period from the date of the first publication of an edition of a literary, scientific or artistic work,—

(a) the copies of such edition are not made available in India; or;"

24. "That at page 8, line 29 for the words 'no licence' the words 'no such licence' be substituted."

25. "That at page 9, for lines 6 to 8

the following be substituted, namely:—

'(e) a period of six months in the case of an application for the reproduction and publication of any work of natural science, physical science, mathematics or technology, or a period of three months in the case of an application for the reproduction and publication of any other work'."

26. "That at page 9, line 14, for the words 'six months' the words 'six months or, three months, as the case may be' be substituted."

27. "That at page 9, lines 16-17, for the words 'shall be printed' the words 'are printed' be substituted."

28. "That at page 9, for lines 22 to 26, the following be substituted, namely:—

'(5) No licence to reproduce and publish the translation of a work shall be granted under this section unless such translation has been published by the owner of the right of translation or any person authorised by him and the translation is not in a language in general use in India."

29. "That at page 10, lines 2-3, for the words 'the provisos to sub-section (1)' the words 'sub-section 1(A)' be substituted."

The questions were put and the motions were adopted."

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): The question is:

"That clause 14, as amended, stand part of the Bill."

The motion was adopted.

Clause 14, as amended, was added to the Bill.

Clauses 15 to 23 were added to the Bill.

Clause 1—Short title and commencement

SHRIMATI SHEILA KAUL: Sir, I move:

"That at page 1, line 4, for the figure '1982' the figure '1983' be substituted."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

SHRIMATI SHEILA KAUL: Sir, I move:

"That at page 1, line 1, for the word 'Thirty-third' the word 'Thirty-fourth' be substituted."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): The question is:

"That the Enacting Formula as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

SHRIMATI SHEILA KAUL: Sir, I move:

"That the Bill, as amended, be passed."

The question was put and the motion was adopted.

HALF-AN-HOUR DISCUSSION ON POINTS ARISING OUT OF ANSWER TO STARRED QUESTION NO. 209 GIVEN ON 10TH MAY, 1983, RELATING TO THE RULES REGARDING REHABILITATION OF DISABLED SERVING PERSONNEL AND EX-SERVICEMEN.

SHRI JASWANT SINGH (Rajasthan): Mr. Vice-Chairman, Sir, it is

not the first occasion that I have had an opportunity to raise the question of continuing concern for benefits to ex-Servicemen. The reason why with a kind of routine periodicity I raise this matter is precisely because I feel that this is a continuing concern, that whereas every successive government has taken note of this concern, has indeed, to its best ability, acted upon that concern, what has been achieved as a packet of benefits for the ex-Servicemen, after 37 years of Independence, still remains unsatisfactory. There is a great deal that remains to be done and unless we continue to give voice to that which remains to be done, a very important aspect of nation's security and security concern remains ignored. The most important aspect of welfare for the ex-Servicemen is the amorphous, almost undefinable quotient, quantity, known as morale. Morale of the serving personnel is directly related to the benefits that you provide to the ex-Servicemen. It is almost a truism to say that today's Servicemen are tomorrow's ex-Servicemen, and unless it is ensured and what is done, carries conviction with them that when they are ex-Servicemen they are going to continue to be looked after, the declining standards and the declining numbers in recruitment will not halt. What we see in recruitment pattern, what we see in the quality of recruitment pattern, is directly related to the kind of input that we are providing to the benefit of the ex-Servicemen.

Sir, it is also directly related to the whole question of fighting potential of a nation. Unless you look after the ex-Servicemen well, you will not get the right material to fight for you; and even if you get the right material to fight for you, that right material is not going to lay down its life it is

people without waiting for requisition or permission from any Government.

On behalf of flood affected people of Adilabad District and other affected districts, I request the Government of India to send teams to all the flood affected States to help the affected people by taking all necessary measures.

(xii) Need for immediate flood relief operation in Karimnagar (Andhra Pradesh)

SHRI M. SATYANARAYANA RAO (Karimnagar) : There was unprecedented heavy rain and flood in my Parliamentary constituency and District Karimnagar in Andhra Pradesh on 9th, 10th and 11th of August. Due to this, there was substantial loss of human life and damage to public and private property. Nearly fifty thousand families were rendered homeless and about fifty lives were lost due to drowning and house collapse in the wake of floods. This was the first time in the history of Karimnagar district that such a colossal loss occurred. About two thousand cattle were washed away and over ten thousand sheep and other live stock perished in floods. Almost all the irrigation tanks were either breached and Panchayat Samithi and Zila Parishad roads were completely damaged. About fifteen thousand houses were completely destroyed and about 20 thousand houses were partially destroyed. About fifty thousand acres of wet and two lakh acres of dry crops were completely damaged. About one thousand oil engines and pump sets along with meters were washed away and the wells were completely silted up. All loss put together is estimated to be fifty crore rupees.

Relief operations in area affected by floods should be undertaken immediately. Particularly food supplies should be sent to marooned areas. Adequate financial assistance should be given by the Central Government for relief operations. Central teams should be sent to the flood affected areas in the districts to assess the losses caused to the crops and other properties.

(xlii) Need for ensuring full implementation of the Agrarian Reforms Laws

SHRI BHOGENDRA JHA (Madhu-

bani) : There is a steady setback on the issue of Agrarian Reforms. Land ceiling laws are not being seriously implemented even in centrally administered States and Union Territories. Worse is the case with the implementation of tenancy laws. Community laws are being encroached upon by the rural rich. Provisions of money-lending laws are being violated in every village and town of the country with regard to the rates of interest, etc. Debt cancellation laws are simply on paper. The Bihar Land Reforms (Amendment) Bill, 1982, seeking to restore intermediary (Zamindari) rights to the Tatas is awaiting the President's assent which will turn thousands of house, land and factory owners of Jamshedpur into sub-tenants of the Tatas with retrospective effect since 1950. I do hereby draw the attention of the Government to ensure refusal of the President's assent to this Bill and ensure full implementation of agrarian reforms.

MR. DEPUTY-SPEAKER : The House stands adjourned till 2.20 P.M.

13.25 hrs.

The Lok Sabha adjourned for Lunch till twentyfive minutes past Fourteen of the Clock.

The Lok Sabha re-assembled after Lunch at thirtyone minutes past Fourteen of the Clock.

[SHRI SOMNATH CHATTERJEE
in the Chair]

COPYRIGHT (AMENDMENT) BILL—
CONTD.

MR CHAIRMAN : We will now take up further consideration of the motion to amend the Copyright Act, 1957.

श्री गिरधारी लाल व्यास (भीलवाड़ा) : सभा-पति महोदय, मैं कापीराइट (एमेंडमेंट) बिल, 1957 का समर्थन करने के लिए खड़ा हुआ हूँ।

सबसे पहली बात तो मैं यह कहना चाहता हूँ कि माननीय मंत्री महोदया जो यह बिल लाई हैं,

यह एक प्रशंसनीय कार्य इन्होंने किया है हालांकि इसमें देरी बहुत हुई है। सन् 1971 में जब इसके सम्बन्ध में निर्णय ले लिया गया था कि इस प्रकार का बिल जल्दी लाया जाए, जिसमें लेखकों और साहित्यकारों का जो शोषण हो रहा है, उससे उनको बचाया जाए, तो यह बिल जल्दी आना चाहिए था लेकिन देरी से आने के बाद इसमें जो इस प्रकार की व्यवस्था की गई है, उससे उनको काफी राहत मिलेगी।

मैं यह भी निवेदन करना चाहता हूँ कि आज-कल हमारे देश में जिस प्रकार से कला-कृतियों, चित्रों और मूर्तियों तथा अन्य प्रकार की दूसरी ऐसी चीजों को चोरी करके विदेशों में भेजा जा रहा है, इस बिल में इस प्रकार का कोई प्रावधान नहीं है कि ऐसे लोगों के खिलाफ, जो हमारी संस्कृति, सभ्यता और हमारे देश की प्राचीन कला-कृतियों को इस प्रकार से खत्म करने की कोशिश में लगे हुए हैं, जो हमारी संस्कृति को बहुत क्षति पहुंचा रहे हैं, उनको बहुत कड़ी सजा मिलेगी। आपने सुना होगा कि हमारे राजस्थान में जितने राजा-महाराजा हुए हैं, उनके पास बहुत पुरानी कला-कृतियां इस प्रकार की हैं, उनके पास किताबें भी हैं, धार्मिक किताबें भी हैं और अन्य प्रकार की पुराने लेखकों की पांडुलिपियां भी वहां पर उपलब्ध हैं।

इस प्रकार की पुरानी कला-कृतियों को जो हमारी संस्कृति के विरोधी लोग हैं और ऐसे लोग हैं जिनकी नीयत खराब है, वे ही इस सारी व्यवस्था में गड़बड़ पैदा करने में लगे हुए हैं। कुछ वर्ष पहले हमारे यहां बहुत कीमती मूर्तियों को विदेशों में बेचा गया था और उनके सम्बन्ध में कहीं पर पता नहीं चला कि उनको कहां पर बेचा गया। हमारे जो मन्दिर हैं, उनमें लाखों-करोड़ों रुपये की पुरानी कला-कृतियां हैं और हमारे देवी-देवताओं की मूर्तियां हैं, जोकि अष्ट-धातु की बनी हुई हैं और जिनकी कीमत अपार है। इस प्रकार की कला-कृतियों को लोग विदेशों में ले जाकर बेच देते हैं। मेरी समझ में इस प्रकार की कोई माकूल व्यवस्था इस कानून के अन्दर होनी चाहिए थी।

मगर इस सम्बन्ध में कोई भी लाज इसमें नहीं रखा गया है, जिससे इन चीजों को रोका जा सके। ऐसी व्यवस्था निश्चित तरीके से होनी चाहिए।

दूसरा मेरा निवेदन यह है कि यहां पर बहुत से गिरोह बने हुए हैं जैसे कि स्मगलिंग करने वालों का एक गिरोह है। इसी प्रकार से इन कला-कृतियों की चोरी करने वाला भी एक गिरोह है जोकि हमारे यहां की सभ्यता, संस्कृति और कला-कृतियों को चुराता है और चुराकर विदेशों में बेचता है। इस प्रकार के लोगों के खिलाफ कार्यवाही करने के लिए कोई प्रावधान मंत्री महोदया ने इस बिल में नहीं किया है, जिससे हमारी जो संस्कृति नष्ट हो रही है, जो हमारी पुरानी सभ्यता नष्ट हो रही है, वह नष्ट होने से बच सके और हमारी जो आगे वाली सन्तान है उसको कैसे इस का पता चलेगा कि हिन्दुस्तान में इस प्रकार की भव्य संस्कृति किसी समय थी। इसके सम्बन्ध में बच्चों को जानकारी मिले। इन सारी चीजों को लोग-बाग खत्म कर रहे हैं जिनके सम्बन्ध में आपने किसी प्रकार का कोई प्रावधान नहीं किया है। मैं निवेदन करना चाहता हूँ कि अब भी समझ है। अगर इस प्रकार का प्रावधान नहीं किया गया तो हमारी ऐसी चीजें और कलाकृतियां जो कि बच गई हैं वे भी नहीं बच सकेंगी।

शिक्षा और संस्कृति तथा समाज कल्याण मन्त्रालयों की राज्य मन्त्री (श्रीमती शीला कौल) : यह तो आरकेलोजिकल सर्वे आफ इंडिया करता है।

श्री गिरधारी लाल व्यास : वह क्या करता है, इसको हम सब जानते हैं। हमने उड़ीसा में जगन्नाथपुरी के मन्दिर को देखा है। उसकी वह मेंटीनेंस कैसे कर रहा है, यह हमें उसे देखकर पता लगा। वहां की तमाम मूर्तियां नष्ट होती जा रही हैं। आपका डिपार्टमेंट उनको मेंटेन करने का काम नहीं कर रहा है।

श्रीमती शीला कौल : मैंने भी उसे देखा है।

It is in very good condition, Sir, and well maintained.

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श्री गिरधारी लाल व्यास : एस्टीमेट्स कमेटी
ने भी उसे देखा है। भुवनेश्वर में भी मन्दिर हैं,
उनको भी हमने देखा है और यह भी देखा है कि
आपका आर्थिकल डिपार्टमेंट उन्हें कैसे मेन्टेन
कर रहा है।

MR. CHAIRMAN : Mr. Vyas has look-
ed with different eyes.

श्री गिरधारी लाल व्यास : पुरी में जगन्नाथ
जी का सबसे प्राचीन मन्दिर है और हिन्दुओं का
वह सबसे पवित्र मन्दिर है। उसकी क्या व्यवस्था
आपका डिपार्टमेंट कर रहा है ?

MR. CHAIRMAN : Mr. Vyas, this is a
Bill to amend the Copyright Act. Please
come to the Bill.

श्री गिरधारी लाल व्यास : ये उस डिपार्टमेंट
की भी मिनिस्टर हैं। इन्हें चाहिए कि ये उसकी भी
उचित व्यवस्था करें। वहां पर अच्छी व्यवस्था
नहीं है।

इस कापीराइट के सम्बन्ध में मैं निवेदन करना
चाहता हूं कि इंजीनियरिंग या मेडिकल की किताबें
जो विदेशों के लेखक लिख रहे हैं और जो कि यहां
छपती हैं वे बहुत ज्यादा दामों में यहाँ बिकती हैं।
दो-दो सौ रुपये की एक किताब आती है। उन
किताबों को गरीब बच्चा तो खरीद नहीं सकता है।
आप कोई ऐसी व्यवस्था कीजिए जिससे कि गरीब
बच्चे भी इंजीनियरिंग और मेडिकल की किताबें
खरीद सकें और वे सस्ते दामों पर सभी को उप-
लब्ध हों। आप उनको सर्वोडाइज्ड करें ताकि
सभी गरीब बच्चे खरीद सकें और अपनी पढ़ाई कर
सकें।

पुस्तकों का जो अनुवाद किया जाता है, उसमें
भी काफी गड़बड़ी होती है। यहां के प्रकाशक लोग
उसमें बहुत गड़बड़ी करते हैं और जिसको करने का
उनको अधिकार नहीं है उसको भी वे करके पुस्तकों
छाप देते हैं। इसलिए बहुत सारी उल्टी-सीधी
किताबें आपको देखने को मिलेंगी। जिस तरह की
अनुवाद की हुई पुस्तकें उपलब्ध होनी चाहिए वे

नहीं हो रही हैं। इस सम्बन्ध में भी आप कुछ न
कुछ उचित व्यवस्था कीजिए।

आप फिल्मस की बात को ले लीजिए। वीडो
की जो फिल्मस आती हैं उनकी कैसी चोरी हो रही
है। गन्दी से गन्दी फिल्म चोरी से यहां लाई जाती
है। वे फिल्में यहां न आ सकें इसकी भी कानून में
व्यवस्था कीजिए। ऐसी भी व्यवस्था कीजिए
जिससे कि गन्दी से गन्दा साहित्य यहां न आ सके।
उसकी भी व्यवस्था करना अत्यन्त आवश्यक है।
जो लोग इस प्रकार का गलत काम करते हैं उनको
सजा मिलनी चाहिए। इसकी भी कोई व्यवस्था
आपको करनी चाहिए।

प्रकाशक और लेखक के बीच जो टसल है,
उसके लिए आपने एक बोर्ड बना दिया है। लेकिन
क्या एक बोर्ड सारी व्यवस्था ठीक कर सकेगा ?
एक लेखक आदमी अपनी लेखनी के जरिये से
जीविका चलता है, वह बड़े प्रकाशक के हाथ में
पड़ जाता है।

प्रकाशक लेखकों का शोषण करते हैं, सारा
धन स्वयं डकार जाते हैं, लेखकों को जितना
मिलना चाहिए नहीं मिलता है। इस चीज को
रोकने के लिए आपने क्या उपाय किया है, यह भी
आपको देखना चाहिए था।

कुछ राजनीतिक दल हैं जो कम्युनल भावनाएं
फैलाते हैं, उस प्रकार के साहित्य का प्रचार प्रसार
करते हैं। यह देश के लिए बहुत घातक है। उस प्रकार
के साहित्य को, किताबों के प्रकाशक को आप किस
प्रकार रोकने जा रहे हैं, उसके लिए आपने क्या
प्रावधान किया है, यह मैं आपसे जानना चाहता
हूं। सांप्रदायिक भावनाएं फैलाने वाले लोग, गलत
तसवीर पेश करने वाले लोग जो हमारे देश के
सम्मान के खिलाफ बातें किसी भी किताब में
लिखते हैं, इस चीज को रोकने के लिए आप क्या
व्यवस्था करने जा रहे हैं, यह भी आप हमें बताएं।

बिल बहुत बढ़िया है। कुछ कदम तो आपने
आगे बढ़ाया है, इसमें कोई शक नहीं है। अन्य बातें
जो रह गई हैं जिनके लिए आपको और कदम

उठाने चाहिए, उनके बारे में आपने क्या निश्चय किया है, यह भी आप हमें बताएं।

सभा प्रति महोदय, आपकी स्टेट की एक बात कहकर मैं समाप्त करता हूँ। वहाँ पर मार्क्सवादी कम्युनिस्ट पार्टी की सरकार है। जिस तरीके से सारी किताबों को, पाठ्यक्रमों को वह पलटने की कोशिश कर रही है, सारे साहित्य को शिक्षा के क्षेत्र में तबदील करने की कोशिश कर रही है, टैगोर जैसे लोगों की कलाकृतियों को नष्ट करने की कोशिश कर रही है और उसके स्थान पर अपना साहित्य लाने की कोशिश कर रही है, क्या उससे हमारी संस्कृति बचेगी, यह भी आपको सोचना चाहिए और इसके बारे में भी आपको कुछ व्यवस्था करनी चाहिए। बंगाल में बहुत गड़बड़ी इस प्रकार की हो रही है। इस सम्बन्ध में भी आपको कुछ न कुछ कदम उठाना चाहिए था ताकि पुरानी जो हमारी मान्यताएँ हैं, हमारी संस्कृति के जो स्तम्भ हैं, टैगोर जैसी की कलाकृतियाँ हैं, वे नष्ट न हों, हमारी सभ्यता नष्ट न हो, हमारी संस्कृति नष्ट न हो।

इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ।

श्री रीतलाल प्रसाद वर्मा (कोडरमा) : इस विधेयक का मैं स्वागत करता हूँ। इसको बारह साल के बाद लाया गया है। अन्तराष्ट्रीय समझौते होते हैं और उन समझौतों के आधार पर अन्तराष्ट्रीय क्षेत्र में मित्र देश आपस में अनुबन्ध करते हैं। कलाकारों, साहित्यकारों, नाट्यकारों या संगीतकारों द्वारा जो साहित्य सृजन किया जाता है, जिन कृतियों का सृजन किया जाता है, उनके बारे में जितना प्रावधान इस विधेयक में आपको करना चाहिए था आपने नहीं किया है। यह इसमें कमी है। आपको एक व्यापक विधेयक ले कर आना चाहिए था।

वान कनवेंशन 1947 में हुआ था। उसका उद्देश्य था प्रोटैक्शन आफ लिटरेसी एंड आर्टिस्टिक वर्क्स। फिर उसके बाद 1952 में ब्रसल्ज कनवेंशन

हुआ, यूनिवर्सल कापीराइट कन्वेंशन। उसकें बाद हमारे देश में 1957 में कानून बना। यह चार पांच बरस बाद बना। उसी परम्परा को निभात हुए बारह बरस के बाद पैरिस कन्वेंशन हुआ और उस कन्वेंशन में इस बात को स्वीकार किया गया कि अन्तराष्ट्रीय क्षेत्र में भिन्न देशों में एक दूसरे देश के साहित्य का आदान प्रदान होना चाहिए, विश्व-विद्यालयों के लिए महाविद्यालयों के लिए, शिक्षण संस्थाओं के लिए किताबों की जो जरूरत होती है उसको पूरा किया जाना चाहिए। यह सही बात है कि विकासशील देशों को विकसित देशों की जो प्रौद्योगिकी सम्बन्धी पुस्तकें होती हैं, उनकी आवश्यकता पड़ती है।

वैज्ञानिक पुस्तकें हैं, साहित्य सम्बन्धी पुस्तकें हैं और ग्रन्थ है उनका अनुवाद अनिवार्य हो जाता है और भाषान्तर करके फिर पुनर्उत्पादित करने के लिए प्रावधान है। मंत्री जी ने जो प्रावधान किया है इससे ज्यादा से ज्यादा लाभ विदेशी साहित्यकारों को ही होगा। लेकिन भारतीय साहित्यकारों, संगीतकारों, नाट्यकारों या अन्य कलाकृतियों के निर्माताओं का जो भयंकर शोषण हो रहा है उसको रोकने का प्रावधान नहीं है। इसमें इसकी व्यवस्था करनी चाहिए थी, जो नहीं है।

औचित्यपूर्ण रायल्टी का प्रावधान भी नहीं है। तीसरे ऐसी पुस्तकों के व्यापक बिक्री हेतु समाज की वर्तमान ऋणशक्ति के अनुसार सस्ता साहित्य प्रकाशित कराकर, अनुदित कराकर, अन्तर्राष्ट्रीय साधनाओं में लगे चिन्तकों, सृजकों एवं संगीत रचनाकारों की जीविका चलाने की व्यवस्था का भी कोई प्रावधान नहीं है। अश्लील एवं भोंडे साहित्य, उपन्यास, नग्नताजन्य कलाकृतियों पर पाबन्दी लगाने की व्यवस्था नहीं है। सत्साहित्यों के मुद्रणालय में भाषान्तर करने, पुनरुत्पादन करने की दिशा में तथा मुद्रित प्रतियों की संख्या के प्रतिवेदन प्राप्त करने तथा उचित रायल्टी साहित्य सृजकों को दिलाने का प्रबन्ध नहीं है। कापी राइट बोर्ड को किताबों के मूल्य निर्धारण करने की औचित्यता पर त्रिचारार्थ सक्षम नहीं बनाया गया जिससे मनमाने ढंग से लागत का

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अत्यधिक मूल्यांकन, संस्थाओं का है। साधारण सकता। इसलिये के अधिक लोगों के पाती क्योंकि मूल्य प्रकाशकों और तालमेल रहता है पुस्तकालयों में मूल्य निर्धारण चाहिये, जो कि

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संस्कृति निधि व
जो रायल्टी मि
चाहिये जिससे र
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सृजन हो सके।
था, लेकिन वह

जो टाइम क
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तो पचासों साल
वर्षों के उपरान्त
कारों को सक्षम
साथ धोखाधड़ी
है तो वह दूसरे प्र
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किया गया है, जि
है। अभी प्रकाश
प्रतियां छापते हैं।

इस तरह की ध
से लेखकों, साहि

उसके बाद
यह चार
ने निभाते
हुआ और
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१, शिक्षण
होती है
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पुस्तकें हैं
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व्यवस्था

हैं।

समाज
साहित्य-
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या का
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उत्पादन
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रायल्टी
हैं।

निर्धारण
नहीं
त का

अत्यधिक मूल्यांकन कर के सरकारी पुस्तकालयों, संस्थाओं का पोषण करने की प्रवृत्ति बढ़ी है। साधारण आदमी किताबें नहीं खरीद सकता। इसलिये ऐसी महत्वपूर्ण पुस्तकें समाज के अधिक लोगों के लिये लाभप्रद सिद्ध नहीं हो पाती क्योंकि मूल्य इतना अधिक रखते हैं और प्रकाशकों और अन्य संबंधित अधिकारियों में तालमेल रहता है जिस कारण से केवल सरकारी पुस्तकालयों में ही वह किताबें रहती हैं। अतः मूल्य निर्धारण का भी इसमें प्रावधान होना चाहिये, जो कि अभी नहीं है।

भारतीय संस्कृति, कला, वेद वेदान्त, शास्त्र, गीता आदि भारतीय धरोहरों के अन्तर्राष्ट्रीय भाषाओं में भाषान्तर करने वाले प्रकाशकों से रायल्टी लेने वाले की व्यवस्था नहीं है। ऐसे साहित्य के लिये अगर देश के अन्दर साहित्य और संस्कृति निधि कर रखा जाय तथा उसके द्वारा जो रायल्टी मिले वह उस निधि को मिलनी चाहिये जिससे राष्ट्रीय संस्कृति और कला निधि के रूप में उसका विकास हो सके और साहित्य का सृजन हो सके। इसका प्रावधान होना चाहिये था, लेकिन वह भी नहीं है।

जो टाइम की पाबन्दी लगा दी गई है, यों तो कई मित्रों ने कहा। महीना रखना चाहिये क्योंकि जमाना प्रगतिशील है, लेकिन मेरा कहना है कि जो साहित्य है, वैज्ञानिकों ने जो अनुसंधान किया है वह शास्वत है, उसके लिये 2,3 वर्ष क्या वह तो पचासों साल तक चल सकता है। 5 या 10 वर्षों के उपरान्त लेखकों या साहित्यकारों, कलाकारों को सक्षम बनाने के लिये और यदि उनके साथ धोखाधड़ी का काम कोई प्रकाशक करता तो वह दूसरे प्रकाशक को दे कर अधिक रायल्टी कर सकें ऐसा प्रावधान इस बिल में नहीं किया गया है, जिसका होना नितान्त आवश्यक अभी प्रकाशक क्या करते हैं कि 50,000 छापते हैं तो 5,000 ही बताते हैं।

इस तरह की धोखा-धड़ी करने वाले प्रकाशकों, लेखकों, साहित्यकारों और कलाकारों को

बचाने के लिए पांच या दस बरस के बाद उन्हें फिर से कापीराइट मिल जाना चाहिए, ताकि वे अपनी कृति को किसी अन्य प्रकाशक को देकर अधिक रायल्टी प्राप्त कर सकें और पुनः संशोधित संस्करण छपवा कर फायदा उठा सकें।

गुमनाम साहित्यकारों के नाम से लाखों पुस्तकें छपती हैं। उन्हें लिखने वाले बहुत गरीब और निर्धन साहित्यकार होते हैं। उनकी रायल्टी को हज्म करने के लिए और उनका शोषण करने की भंशा से प्रकाशक दो चार हजार रुपए देकर उनकी कृतियों का कापीराइट ले लेते हैं और उन्हें दूसरे नामों से, या बोगस नामों से, प्रकाशित करते हैं। इस बारे में भी इस बिल में कोई प्रावधान नहीं किया गया है।

चोरी लेखन करने वाले प्रकाशकों, नकलची लेखकों और मूल विचार को तोड़-मरोड़ कर पाठकों तथा जनता के सामने रखने वालों की आपराधिक कार्यवाहियों को संज्ञेय अपराध घोषित करने की भी इस बिल में कोई व्यवस्था नहीं है।

फोटो-कैसेट, फोटो-फिल्मिंग और माइक्रो-फिल्मिंग के माध्यम से आज अवैध रूप से कैसेट-निर्माण और उनकी तस्करी घड़ल्ले से हो रही है। यहां पर संगीत का रिकार्ड मार्केट में आने से पहले और फिल्म के प्रदर्शन से पहले ही हांगकांग, जापान आदि देशों में उनकी कापियां मिल जाती हैं, जिसके कारण राइटर्स या निर्माता का लाभ नहीं होता। सरकार ने इस बारे में भी कोई व्यवस्था नहीं की है।

इस बिल में यह भी नहीं बताया गया है कि किन किन भाषाओं और किन-किन देशों के साहित्य पर प्रतिलिप्याधिकार कानून, कापीराइट एक्ट, लागू होगा।

इस विधेयक में बहुत सी कमियां हैं, जिनकी ओर सरकार को ध्यान देना चाहिए था। फिर भी इसे ठीक दिशा में एक कदम कहा जा सकता

है। 1957 में जो एक्ट बना, उसमें बहुत सी प्रशासकीय कमियाँ रह गई थीं। उन कमियों को दूर करने के लिए यह संशोधन लाया गया है, लेकिन इसे एक व्यापक और सर्वांगपूर्ण संशोधन नहीं कहा जा सकता। इससे लेखकों के हितों और जनहित की सुरक्षा की मंशा की पूर्ति नहीं होती है। इस दिशा में और कदम उठाने होंगे।

PROF. SAIFUDDIN SOZ (Baramulla) : Mr. Chairman, Sir, at the very outset, I must say that to bring forward this Bill is a very progressive step. As India was already committed at the Paris Conference and earlier also at the Universal Rights Convention at Geneva, I feel, it is a progressive step although a belated one. Particularly, I feel that the system of compulsory licence will certainly ensure that we will get good reading materials, translations and also original materials from abroad.

There is a hue and cry from certain publishing houses that it will hit Indian authors. But I feel that the quality of our production will improve and maybe that it will reduce the prices also because of competition. It is not necessary that the books that we import will be costlier.

Then, the institution of a copyright Board is a very important provision in the Bill. It will definitely ensure fair dispensation for authors. But it could be a comprehensive one.

I do not know whether it will meet the requirements. Authors have always suffered in this country and many of my colleagues have already spoken about this. I don't want to repeat. One or two provisions in this Bill could make the institution of this Copyright Board purposeful. For instance, there is no harm for the press and the printers to directly inform the author about the size of the printing order. That will ensure a particular amount of money that is required to be paid to the author. There is no harm in that. I do not know why it has not been indicated.

The publishers' enterprises are auditable. A copy of the audit report must be made available to the author. But the author at present is always in the dark. Whatever the

gains of the project 99 per cent goes to the publishing house. 1 per cent may—I do not know whether I am correct to say—goes to authors. Authors do not get their due. But these two measures could certainly ensure proper payment to them. They must know the size of the print order and whenever there is audit, a copy of the audit report must go to them.

The Bill does not provide measures for piracy and the piracy in modern times has different forms like phonographic piracy, cassette piracy and there is no provision in the Bill to check piracy and particularly in our neighbouring countries, there is large-scale piracy of the books produced in India and recently the Secretary-General of the Authors Guild has said that publishing houses in Pakistan indulge in large-scale piracy of the books produced in India. There is no provision in the Bill to check this.

I would also suggest that the books giving the gist or the notes—we call them Khulasa in Urdu—for the books produced by institutions like NCERT should also be bracketed under piracy. I have some knowledge of how fake authors and fake publishers indulge in producing these refresher course books and gist of the books produced by NCERT. The result is that students are not allowed to go through the original texts and they read 'one day series' and that affects the standard of learning in the country. I would suggest that so far as piracy is concerned, not only the actual piracy done through films, cassettes etc., but production of 'one day series' or the gists of books, what is known in Hindustani, Khulasa, must be brought under the purview of the Bill and bracketed with the forms of piracy indulged in by various people because this kind of piracy adversely affects the standards of learning in the country.

Coming to page 5 of the Bill, I would seek a clarification from the Hon. Minister. While through licences we get literary works on drama etc., there is a provision "in any language" and general use in India "after a period of seven years from the first publication of the work" or "the translation of any such work which is not an Indian work is required for the purpose of teaching, scholarship or research". In the next proviso,

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you say that "provided that where the translation referred to in the preceding proviso is in a language not in general use in any developed country, such application may be made after a period of one year from such publication." Why this concession only in respect of certain developed countries?

I am afraid the term 'developed country' is not a static term, it is a dynamic term. You may adopt the U.N. definition, but that is not sufficient. For instance, the famous economist, Mr. W.W. Rostow gives five stages of economic growth. You may be developed today and you may not be developed tomorrow. So, instead of saying 'developed countries' you could say Great Britain, America, Russia or any other country. If you say 'developed countries', every time you will have to refer to the chart. I do not think this is correct.

15 hrs.

One more illogical thing that appears to me is this. On the same page, in the last but one paragraph there is a proviso which reads :

"Provided that nothing in clause (ii) shall apply to the export by Government or any authority under the Government of copies of such translation in a language other than English, French or Spanish to any country if—

- (1) such copies are sent to citizens of India residing outside India or to any association of such citizens outside India ;"

When we come to export, we export. That is all. If you qualify it by saying that it will be sent "to citizens of India residing outside India or to any association of such citizens outside India", then anybody will form an association and corrupt practices will be indulged in. We do not say that we export only to citizens of India residing outside India and so on. I do not think it is correct.

Finally, it is the actual implementation of the legislation which is important. Whatever provisions there were under this Copyright Act were not implemented most sincerely. Therefore, whatever provisions are

being made in this Bill, those provisions require efficient implementation. I would request the hon. Minister that when she rises to answer—I do not know whether she will like to answer because we speak for the sake of speaking ; even when genuine suggestions are made, I do not know whether these suggestions are accommodated at all—to the points we have raised, she must assure us that there will be proper implementation.

15.03 hrs.

[SHRI N.K. SHEJWALKAR in the Chair]

SHRIMATI SHEILA KAUL : Sir, I have listened to the speeches of the hon. Members with a great measure of attention and respect. A remarkable feature of the discussion has been that, while the hon. Members have made several valuable points, they have all welcomed the Copyright Amendment Bill. I am grateful to them for this expression of appreciation. I have had the opportunity of explaining that this Bill has a specific purpose in view. I am conscious, at the same time, of the fact that there is so much that needs to be covered by legislation. Let me assure the hon. Members that all the points they have raised will receive our utmost attention. I am glad that the basic purpose of the Bill has been appreciated. Though belated, the Bill, nevertheless, makes a significant breakthrough in catching up with the provisions of the latest Paris Act, 1971. This was an imperative requirement and with this we correct certain distortions that could have otherwise crept in our administration of the Copyright law.

The point which I have urged earlier and which has received a wide measure of appreciation concerns the free flow of knowledge from one country to another. I may reiterate that the provision regarding compulsory licencing of foreign books is of far-reaching significance and it will help our country in not only keeping abreast of the latest knowledge but also expanding our frontiers of information and access to the latest that is being said and thought. I must immediately, at this juncture, allay an apprehension in the minds of some hon. Members ; let me clarify that the books to be brought under the compulsory licencing

system would only be those books which are not available in India at a reasonable price.

I would be the last person to say that the Bill comprehends all that the Copyright Bill should. A comprehensive legislation on the subject will naturally take into account post-1971 development. These, as Members have referred to, relate to wide-spread piracy in books, videos, tapes and phonographic compositions. These, as Members rightly pointed out, have become quite complicated issues in the context of sophistication of technology. We have under consideration a broad profile of legislation that would in due course of time, take care of it. But, as Members would kindly appreciate, this would take some time as any proposed legislation will have to look at not only global implications but a number of issues of the inter-Ministerial kind. I am conscious of the need to bring it about and suggestions made by Members from all sections of the House reinforce our resolve that it has to be done urgently.

Now, there are certain points which are common to all the Member's who have spoken. I would like to mention them separately, one by one. Shri Rup Chand Pal suggested that the present measure was inadequate because it did not protect the authors' rights and that the three year period for compulsory licensing was too long. I might, in this connection, mention that clause 19(a) of the Bill does look after the authors' rights as it gives for the first time an opportunity of a dispute being heard and decided in a summary manner. This is to be done in the Copy Right Board.

As regards three and one year limit stipulated under compulsory licensing, I would bring to the notice of the hon. Members the fact that this is based on the Paris enactment and that we have no options in this regard.

Shri Mool Chand Daga referred to the reasons for the delay in bringing up the Bill as also to the issue of widespread piracy of books and faulty translations, particularly, in regional languages. In this connection, I may mention that the Bill was delayed for various reasons. The Paris Act

itself came into force in 1974, the proposed amendment based on these lines, was submitted to the Cabinet in 1976. From 1977 onwards, no substantial progress was made till in 1980 when it was taken up again in right earnest. Some of these delays are unavoidable as they involved a number of Departments and Ministries in discussion. The point of piracy as I had a chance of mentioning is general and is being looked into in terms of vast range of its many implications. Here I would like to add as to how, in my own home, in a room a picture was hung on the wall. Shri Rajnath Soekar Shastri mentioned about my husband. I am grateful to him for bringing up the name of my late husband. You all know that he was a scientist and he was asked to find out water in the desert of Rajasthan. It was in the year 1948-49 that he discovered underground water resources in Jodhpur in Sundhara area where a big pump was erected with four engineers working on it, pumping out the waters. A photo was taken of my husband showing there with two engineers. After a lapse of 20 years, this photograph still decorates a wall in my house.

This was also put in a Science Magazine, saying that that gentleman, the scientist, had discovered this water and this was the picture of the people working at it. Sir, the work had been done by my husband. The picture was taken by us and the picture and everything is hanging in my room and this thing comes out in the magazine that this work was done by somebody else. So, my husband wrote a letter to the magazine editor and the magazine editor sent that letter to this scientist. The scientist writes to my husband and he says, "Professor Kaul, you are an internationally known figure. What if I share your glory?" Now, this is the sort of piracy that takes place. So, we are also victims of this piracy.

AN HON. MEMBER : What was the further reaction ?

SHRIMATI SHEILA KAUL : When he says that he wants to shine in the glory of others what can you do ?

The question of faulty translation is itself covered under clause 32(4) proviso (d) which

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provides for the Copyright Board taking care of the correctness of the translation before permitting compulsory licensing.

Shri Ram Singh Yadav suggested that any person should not be given licence for compulsory publication and also expressed apprehension about the correctness of translation. As I have said before, the correctness of translation is already taken care of in the procedure prescribed in the Bill. It will be difficult for us to insist that only certain selected languages should be used for translation so long as the correctness of the translations is ensured.

Shri K. Rajan while making several points suggested that the authors should themselves be represented on the Copyright Board. I would point out that the Copyright Board is a Quasi-Judicial body which is to go into disputes between authors and publishers. Naturally, therefore, it has to be an impartial body like any other court of law and it cannot have parties to the disputes as Members.

Shri Harish Rawat mentioned that the Copyright Board should be broad based and that it should meet at regular intervals. He also advocated the need for less costly court procedures. A number of other members also referred to the composition of the Copyright Board. I might mention in this connection that the Board is already fairly broad based. It has nine members and they all have judicial standing. The Chairman is always a serving or retired Judge of the High Court. In the very nature of things the Board is supposed to perform quasi-judicial function. It meets on an average once in two months and its disposal of work is very prompt and substantial.

As regards litigation, the very intention of clause 19(a) is to ensure a summary procedure which is not expensive.

Shri Shastri appeared to have an apprehension that the authors got royalty only after their death. This is not correct because under the Copyright Law royalty becomes payable to the author immediately on publication of his work and remains payable throughout his life and for fifty years after his death to his legal heirs.

Yet, another interesting point made related to royalty, not being paid on books like the *Bhagawat Gita*, the *Ramayana*, the holy *Quran* and other known classics.

The Members are perhaps aware that these works are in the public domain and as such they are part of our rich national heritage. So, no royalty is payable on such works. They belong to the public domain.

Prof. Ajit Kumar Mehta took the opportunity of suggesting that it should be possible for the authors to revoke the agreements if they are found to be harmful to their interests.

I may bring to the notice of the Members that the very intention of Clause 19A is to provide for such safeguards in the event of disputes.

This also meets the point made by Shri Shailani who expressed the view that measures should be taken to stop the exploitation of authors by publishers.

Now, Shri Vyas also spoke about piracy. He has gone. He spoke about antiques, he spoke that they are stolen and taken away. For antiques, the registration for antiques is there. It is known as the Antiques Act. If there is anything which is 100 years old it has to be registered and this Antiques Act looks after those problems. He spoke about the temples and all that. That comes under the Archaeological Survey of India. We have difference of opinion on that. Now, he also mentioned about literature prejudicial to maintenance of communal harmony; there are other agencies to look after this.

Prof. Saifuddin Soz (J and K) mentioned certain other points. I would like to point out to him that if he goes through the Bill thoroughly when he finds time, he would find that many things have been covered in this Bill. When you go through it in a cooler manner, you will find that we have gone into it very carefully and it will give you a clear idea how authors are protected. Of course I have spoken to you at length about piracy. We are trying to do all these things because we are concerned with the enforcement of the Piracy Act,

Not only we, but the international world is interested in such matters and they are also looking into them as would be done by the Government of India.

MR. CHAIRMAN : The question is :

"That the Bill to amend the Copyright Act, 1957, as passed by Rajya Sabha, be taken into consideration."

The Motion was adopted.

MR. CHAIRMAN : Now we take up clause by clause.

There are no amendments.

The question is :

"That Clauses 2 to 23 stand part of the Bill."

The Motion was adopted.

Clause 2 to 23 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

PROF. SAIFUDDIN SOZ : All are 'Ayes' only ; there is no 'No' as far this Bill is concerned.

THE MINISTER OF STATE OF THE MINISTRIES OF EDUCATION AND CULTURE AND SOCIAL WELFARE (SHRIMATI SHEILA KAUL) : I beg to move :

"That the Bill be passed."

MR. CHAIRMAN : Motion moved :

"That the Bill be passed."

Now, Shri Shastri.

श्री रामावतार शास्त्री (पटना) : मैं इस विधेयक का समर्थन करते हुए दो एक बातें कहना चाहता हूँ। वैसे उन बातों की तरफ और भी माननीय सदस्यों ने आपका ध्यान दिलाया है। कापीराइट के सिलसिले में विधेयक आप पास कर

रहे हैं। इस विधेयक का सहारा लेते हुए मैं आपका ध्यान अपने देश के साहित्यकारों, लेखकों, कवियों और खास तौर से हिन्दी के लेखकों की तरफ दिलाना चाहता हूँ और उनकी चर्चा करना चाहता हूँ। उन्होंने किताबें बहुत महत्वपूर्ण लिखीं, उपन्यास, कवितायें, कहानियाँ आदि लिखीं। राष्ट्रीय आंदोलन के जमाने में उन्होंने नौजवानों को आन्दोलन करने वाली चीजें भी लिखीं। लेकिन उनकी स्थिति बहुत ही दयनीय रही। पुरानी बातों से हम परिचित हैं। प्रेम चन्द जी ने जैसी किताबें लिखीं, वक्त नहीं है कि उन पर मैं चर्चा कर सकूँ। लेकिन वह मरे बहुत ही बुरी हालत में। मैं स्वयं उन दिनों बनारस में काशी विद्यापीठ का छात्र था। दवादारू की भी व्यवस्था ऐसे चोटी के लेखक के लिए नहीं हो सकी। उसी तरह जय शंकर प्रसाद जी थे। राहुल सांस्कृत्यायन जी को कौन नहीं जानता। सौ से ज्यादा पुस्तकें उन्होंने लिखीं। सुमित्रा नन्दन पन्त बड़े कवि थे। सूर्यकान्त त्रिपाठी निराला भी थे। हमारे अपने सूबे में एक लेखक थे बहुत बड़े और उनका नाम था श्री शिव पूजन सहाय जी। इन लेखकों का नाम मैं इसलिए ले रहा हूँ कि किताबें तो इन्होंने बहुत ही महत्वपूर्ण लिखीं, पूरे देश को जगाया, साम्राज्यवाद के खिलाफ भी और जमींदारी प्रथा के खिलाफ भी जगाया, मानवता की रक्षा करने के लिए जगाया लेकिन उनकी अपनी हालत बहुत बुरी रही। अभी भी कुछ जिन्दा लेखक हैं जिनकी हालत अच्छी नहीं है। एक दो का नाम मैं लूंगा। हमारे सूबे में मैथिली के बहुत बड़े लेखक हैं और हिन्दी के भी हैं नागार्जुन। वह कभी बनारस और कभी कलकत्ता और कभी दिल्ली मारे मारे फिरते हैं। बड़ी बड़ी किताबें उन्होंने लिखीं लेकिन उनको रायल्टी के पैसे नहीं मिलते। इन लोगों को भी नहीं मिले। प्रकाशक उनसे धनवान हो जाते हैं, उन लेखकों का शोषण करके धनवान हो जाते हैं, मालामाल हो जाते हैं लेकिन उनको रायल्टी का पैसा नहीं देते हैं। प्रकाशक तो शोषण उनका करते ही हैं सरकार भी उनकी तरफ समुचित ध्यान नहीं देती है। अभी भी हमारे सूबे के एक लेखक हैं राज्य स्तर पर वह प्रसिद्ध हैं जिनका नाम है लाल धुआं। वह बीमार

हैं। जनरल अ सरकार से आप चाहिए लेकिन जो जनता को हैं, ऐसे लेखक तरफ न आपक यशपाल को क ने समाजवाद जो कम उम्र को आकर्षित आगे जब भी भी आपका की सहायता सरकार को जिसमें से आप भी इस तरह मंत्रालय को ताकि उसमें से

दूसरी ब चाहता हूँ। व में किया जाता जाता है। र रायल्टी तय नहीं हैं। लेख कि वे मुकदम लें। इंदिरा ने जो किताबें सकती है लेकिन नहीं हैं।

श्रीमती इ मिली शुरु में।

श्री रामा दिलवायी तो।

श्रीमती दिलवायी।

श्री रामाव

हुए मैं आपका
लेखकों, कवियों
को की तरफ
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त महत्वपूर्ण
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ली चीजें भी
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हैं। प्रेम चन्द
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सरकार
है। नवी
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हैं। जनरल अस्पताल में पड़े हुए हैं। साहित्यकार
सरकार से अपील कर रहे हैं कि उनकी मदद होनी
चाहिए लेकिन कोई मदद नहीं करता है। लेकिन
जो जनता को जगाते हैं, उसमें अच्छाई पैदा करते
हैं, ऐसे लेखकों की मैं बात कर रहा हूँ। उनकी
तरफ न आपका और न हमारा ध्यान जाता है।
यशपाल को कौन नहीं जानता। राहुल सांस्कृतिक
ने समाजवाद की तरफ मुझ जैसे लोगों को मोड़ा
जो कम उम्र के थे, लाखों की संख्या में नौजवानों
को आकर्षित किया, उनकी स्थिति क्या रही?
आगे जब भी आप कानून बनाएं तो उनकी तरफ
भी आपका ध्यान जाना चाहिए और ऐसे लेखकों
की सहायता के लिए, आर्थिक सहायता के लिए
सरकार को किसी कोष का निर्माण करना चाहिये।
जिसमें से आप उनकी मदद कर सकें। राज्यों में
भी इस तरह के कोष बनने चाहियें और शिक्षा
मंत्रालय को भी एक ऐसा कोष बनाना चाहिए
ताकि उसमें से हम उनकी मदद कर सकें।

दूसरी बात मैं रायलटी के बारे में कहना
चाहता हूँ। वादा तो लेखकों के साथ इसके बारे
में किया जाता है लेकिन उसको पूरा नहीं किया
जाता है। रायलटी कम भी दी जाती है जो
रायलटी तय की जाती है वह भी उनको मिलती
नहीं है। लेखकों के पास इतना पैसा नहीं होता है
कि वे मुकदमा करके रायलटी का पूरा पैसा ले
लें। इंदिरा जी को पंडित जवाहरलाल नेहरू
ने जो किताबें लिखीं उसकी रायलटी मिल
सकती है लेकिन सब लोग तो देश के प्रधान मंत्री
नहीं हैं।

श्रीमती शीला कौल : नहीं, उनको भी नहीं
मिली शुरू में।

श्री रामावतार शास्त्री : बाद में आपने
बिल वापसी तो।

श्रीमती शीला कौल : नहीं, मैंने नहीं
वापसी।

श्री रामावतार शास्त्री : मेरा कहना है कि

बड़े बड़े लेखक जो दयनीय स्थिति में हैं उनकी
तरफ ध्यान देना सरकार का सबसे बड़ा कर्तव्य
होना चाहिए, चाहे वह राज्य सरकार हो या केन्द्र
की सरकार, और उनको रायलटी ठीक से मिले,
उसका रेट बढ़े। पुस्तकों का मूल्य कम होना
चाहिए। हमारा मुल्क गरीब है, पुस्तकों की
कीमत साधारण जनता की पहुंच से बाहर है। तो
पुस्तकों के मूल्य इतने ऊंचे नहीं होने चाहिए।
अभी तो बहुत सारे अभिभावक अपने बच्चों के
लिए महंगी किताबें खरीद भी नहीं सकते क्योंकि
100, 150 ६० की जो किताबें हैं उनको कितने
प्रतिशत लोग खरीद सकते हैं? नतीजा यह होता
है कि पुस्तकालयों में बच्चे इतनी महंगी किताबों
को पढ़ते हैं। इसलिए कीमत की तरफ भी आपका
ध्यान जाना चाहिए।

हमारे देश में गन्दी पुस्तकें और पत्रिकाएँ भी
छप रही हैं। इनका नियंत्रण होगा या नहीं? या
हमारे बच्चों के दिमाग को दूषित किया जायगा?
इसकी तरफ भी ध्यान आपका जाना चाहिये।

और आखरी बात जो इससे ताल्लुक नहीं है
और जिसके बारे में आपने जवाब भी दिया है, वह
है स्वतंत्रता सेनानियों के बारे में। मैं स्वतंत्रता
सेनानी हूँ, प्रो० रंगा भी हैं और दोनों सदनों में
करीब 140 स्वतंत्रता सेनानी हैं, देश में अभी भी
प्रमुख स्वतंत्रता सेनानी जिन्दा हैं, उनके बारे में
मैंने सवाल पूछा था, उनका छोटा छोटा जीवन
चरित्र किताबों के रूप में छपा दीजिए ताकि आगे
आने वाली सन्तान समझे कि हमारे देश के लिए
उन्होंने क्या कुरबानी दी।

इन बातों के साथ मैं आपके विधेयक का समर्थन
करता हूँ और विश्वास करता हूँ कि आगे और जो
बिल लाइयेगा उसमें इस तरह की तमाम बातों को
शामिल कीजियेगा।

श्री अब्दुल रशीद काबुली (श्रीनगर) : जनाब
सदर साहब, अब्बल तो मैं जो बिल सरकार की
तरफ से आया है इसकी हिमायत करता हूँ और
मुबारकवाद देता हूँ कि ऐसा बिल आप लायी हैं

जिसके जरिये लेखकों की जो राइटिंग्स हैं उनकी हिफाजत के लिये कदम उठा रहे हैं। लेकिन मैं याद दिलाना चाहता हूँ कि यह जो काफी राइट का मसला है, हमारा मुल्क गरीब है अक्सर लोग यहां किताबें नहीं पढ़ते हैं जब कि अमरीका जैसे मुल्क में एक बार कोई एक किताब लिखे तो 10, 50 लाख रु० कमा सकता है। लेकिन हमारे यहां तो यह हालत है कि भले ही उसकी काबलियत हो, बहुत बड़ा लेखक हो लेकिन किताब छपाने के लिये भी उसके पास पैसे नहीं होते और रियासत के जो कल्चरल इदारे हैं, अकादमी हैं, या केन्द्र की जो एकेडमीज हैं उनको उसको ऐप्रोच करना पड़ता है कि हमें मदद कीजिए किताब छपाने के लिये। और आप लोगों में किताब पढ़ने का मिजाज पैदा नहीं हुआ है जिसका अंजाम यह होता है कि किताब के छपने में जो उसकी पूंजी लगी है वह भी वापस नहीं आती है। इसलिये इंग्लिस्तान या अमरीका के अदीबों के साथ अपने मुल्क के अदीबों का मुकाबला नहीं किया जा सकता। अगर किताब की कीमत 4 रु० की रखी जाय तो 2 रु० में भी हमारे यहां लोग उसको नहीं खरीदेंगे। इसलिये मैं चाहूंगा कि अगर आप अदीबों की हौसला अफजायी करना चाहते हैं तो सिर्फ काफी राइट से यह मसला हल नहीं होगा, हां उसका मैयार देखा जाय, और फिर किताबों की खरीदारी की जिम्मेदारी सरकार की होनी चाहिये। लेकिन अक्सर ऐसा होता नहीं है। मेरी राय में यह एक जिम्मेदारी बना दी जाय कि चाहे किसी भाषा में हों, इन अदीबों को जो अच्छे लिखने वाले हैं, जिसके ऐप्रोच नहीं है, जो सरकार तक नहीं पहुंच सकते हैं, तो उनकी किताबों को लाइब्रेरीज के लिये खरीदा जाय।

अदीबों और लेखकों का खून चूसना और उनकी मेहनत की कमाई पर डाका डालना हिन्दुस्तान के पब्लिशरों का एक धंधा बन चुका है। हिन्दुस्तान की यह ट्रेंडेंसी है कि अदीब लिखता है और किताब छपती है, लेकिन उसका ज्यादा फायदा पब्लिशर को होता है। इस बात का खास ख्याल रखना चाहिए।

हिन्दुस्तान और पाकिस्तान दोनों देशों में उर्दू, अंग्रेजी और पंजाबी जुबानें रायज हैं और उन दोनों का एक कामन कल्चरल हेरिटेज है। हमने देखा है कि पाकिस्तान के किसी अदीब की उर्दू किताब हिन्दुस्तान में छपती है, मगर उसका रायल्टी देने वाला कोई नहीं है, क्योंकि चोर पब्लिशर ऐसी किताबों को छापते हैं। इसी तरह हिन्दुस्तान में अदीबों की किताबें पाकिस्तान में छपती हैं, मगर उन्हें रायल्टी में चार पैसे भी नहीं मिल रहे हैं।

इस जिम्न में मैं आपका ध्यान फिल्मी दुनिया की तरफ दिलाना चाहता हूँ। जो कोई अच्छी कहानी या नावल माकॅट में आता है, उसकी चोरी होती है और उसके आधार पर फिल्म बनाई जाती है, लेकिन अदीब इस बड़े भ्रष्टाचार और फिल्म इंडस्ट्री की बहुत बड़ी ताकत का मुकाबला नहीं कर सकते। सरकार का फर्ज है कि वह मुख्तलिफ सतहों पर अदीबों की डिफीकल्टीज को दूर करने की कोशिश करे।

अगर किसी किताब को चोरी से छापा जाता है, तो उस सूरत में सरकार को अदीब को लीगल एड की शकल में मदद देनी चाहिए।

हिन्दुस्तान की आजादी की जद्दो-जहद में हिस्सा लेते हुए पिछली पीढ़ी के हिन्दी, उर्दू, पंजाबी, बंगला, तामिल और तेलुगु वगैरह सब जुबानों के हजारों अदीबों ने बड़ी कुर्बानियां दी थीं, जिसकी तरफ अभी शास्त्री जी ने इशारा किया है। उस वक्त के बहादुर मुजाहिदों ने जो क्रान्तिकारी आन्दोलन चलाए, उसमें अदीबों और लेखकों का भी बड़ा सहयोग था। यह देखना चाहिए कि किन लेखकों ने 1947 से पहले आजादी के लिए कुर्बानियां दीं और उनकी हर तरह से मदद करनी चाहिए। वे लोग भूखों मर रहे हैं। उनका कोई पुरसाने-हाल नहीं है।

मैं कहना चाहता हूँ कि खाली कापीराइट से काम नहीं चलेगा। अगर सरकार वाकई दियानत-दाराना तौर पर अदीबों को मदद करना चाहती है, तो जो तरीके मैंने आपके सामने पेश किए हैं, उसे उनके मुताबिक काम करना चाहिए।

صدر -

ریک طرف

بارکباد ریتا

پیکھنکی

رہے ہیں۔

طی کا مسئلہ ہے

میں پڑھتے

کتاب کھ

ہمارے یہاں

ت بڑا ایک

س پیسے نہیں

اکاڈمی ہیں

ج کرنا پڑتا ہے

درعام لوگوں

ہے جس کا ادارہ

پانچویں گیسے

کشتان یا امریکی

ہوں کا مقابلہ

ارور سپر کی

لوگ اس کو

کا کہ اگر آپ

تو صرف کا پی

کا مبیارد کیا

دارری سرکار

ی ہے۔

ی بنیادی جائے

کو جو اپنے

کارنامہ نہیں

ہیں کے لیے

اور ان کی محنت

نروں کا ایک

یہی ہے کہ

اس کا زیادہ

خیال رکھنا

بیشد میں اردو

بران دونوں

देशों में
त्र हैं और
रिटेज है।
अदीव की
र उसका
कि चोर
इसी तरह
कस्तान में
ने भी नहीं

ने दुनिया
ई अच्छी
की चोरी
माई जाती
र फिल्म
ला नहीं
मुख्तलिफ
दूर करने

मा जाता
ने लीगल

जहद में
री, उद्ग,
रहर सब
रा दी थी,
किया है।
नितकारी
खकों का
कि किन
ए कुर्बा-
द करनी
का कोई

ने राइट से
दियानत-
चाहती
किए हैं,

شری عبدالرشید کابلی (سری نگر) جناب صدر -
اول تو جو بل سرکاری طرف

سے آیا ہے میں اس کی حمایت کرتا ہوں اور مبارکباد دیتا
ہوں کہ ایسا بل آپ لائے ہیں۔ جس کے ذریعہ لیکھنؤ کی
جو رائٹس ہیں ان کی حفاظت کیلئے قدم اٹھا رہے ہیں۔
لیکن میں یاد دلانا چاہتا ہوں کہ یہ جو کاپی رائٹ کاسٹ ہے
ہمارا ملک غریب ہے۔ اکثر لوگ یہاں کتابیں نہیں پڑھتے
ہیں۔ جبکہ امریکہ جیسے ملک میں ایک بار کوئی ایک کتاب کھے
تو دس۔ پچاس لاکھ روپیہ کما سکتا ہے۔ لیکن ہمارے یہاں
یہ حالت ہے کہ پہلے ہی اس کی تابیت ہو۔ بہت بڑا ایکٹ
ہو لیکن کتاب چھاپنے کیلئے بھی اس کے پاس پیسے نہیں
ہوتے اور ریاست کے جو کچھ ل ادارے ہیں اکاڈمی ہیں
یا کینڈر کی جو ایکٹو مین ہیں ان کو اس کو ایروڈج کرنا پڑتا ہے
کہ جس میں مدد کیجئے۔ کتاب چھاپنے کے لیے۔ اور عام لوگوں
میں کتاب پڑھنے کا مزاج پیدا نہیں ہوتا ہے جس کا اثر
یہ ہوتا ہے کہ کتاب کے چھپنے میں جو اس کی توجہ منسوب ہے
وہ بھی واپس نہیں آتی ہے۔ اس لیے ان گنتان یا امریکہ
کے ادیبوں کے ساتھ اپنے ملک کے آدمیوں کا تقابلہ
نہیں کیا جاسکتا۔ اگر کتاب کی قیمت چار روپے کی
جائے تو دو روپے میں بھی ہمارے یہاں لوگ اس کو
نہیں خریدیں گے۔ اس لیے میں چاہوں گا کہ اگر آپ
ادیبوں کی حوصلہ افزائی کرنا چاہتے ہیں تو صرف کاپی
رائٹ سے مسئلہ حل نہیں ہوگا۔ اس کام میں دیکھنا
جائے اور پھر کتابوں کی خریداری کی ذمہ داری سرکار
کی ہونی چاہئے۔ لیکن اکثر ایسا ہوتا نہیں ہے۔

میری رائے میں یہ ایک ذمہ داری بنادی جائے
کہ چاہے کسی کتابت میں ہوں ان ادیبوں کو جو اپنے کلمے
دائے ہیں جن کی ایروڈج نہیں ہے جو سرکار تک نہیں
پہنچ سکتے ہیں تو ان کی کتابوں کو لائبریری کے لیے خریدنا
جائے۔

ادیبوں اور لیکھوں کا خون چوسنا اور ان کی محنت
کی کمائی پر ڈاکہ ڈالنا ہندوستان کے پبلشرز کا ایک
دھندہ بن چکا ہے۔ ہندوستان کی پریس بیکڑی ہے کہ
ادیب لکھتا ہے اور کتاب چھپتی ہے لیکن اس کا زیادہ
فائدہ پبلشر کو جوتا ہے۔ اس بات کا خاص خیال رکھنا
چاہئے۔ ہندوستان پاکستان دونوں دیشوں میں اردو
انگریزی اور پنجابی زبانیں رائج ہیں اور ان دونوں

کا ایک کام لکچرل ہیرٹیز ہے۔
ہم نے دیکھا ہے کہ پاکستان کے کسی ادیب کی
اردو کتاب ہندوستان میں چھپتی ہے مگر اس کی رائٹس
دینے والا کوئی نہیں ہے کیونکہ چور پبلشر ایسی کتابوں کو
چھاپتے ہیں۔ اس طرح ہندوستان کے ادیبوں کی کتابیں
پاکستان میں چھپتی ہیں مگر انھیں رائٹس میں چار پیسے بھی
نہیں مل رہے ہیں۔

اس ضمن میں میں آپ کا دھیان غمی و نیاں کی
طرف دلانا چاہتا ہوں۔ جو کوئی اچھی کہانی یا ناول مارکیٹ
میں آتی ہے اس کی چوری ہوتی ہے اور اس کے ادھار
پر نام بنائی جاتی ہے لیکن ادیب اس بڑے بھڑٹا چار
اور فلم انڈسٹری کی بہت بڑی طاقت کا مقابلہ نہیں کر
سکتے۔ سرکار کا فرض ہے کہ وہ مختلف سطحوں پر ادیبوں
کی ڈیفینڈیشن کو دور کرنے کی کوشش کرے۔

اگر کسی کتاب کو چوری سے چھاپا جائے تو اس
صورت میں سرکار کو ادیب کو لیگل ایڈ کی شکل میں
مدد دینی چاہئے۔

ہندوستان کی آزادی کی جدوجہد میں حصہ لیتے
ہوئے پچھلی پڑی کے ہندی اور پنجابی بنگلہ تامل
اور تیلگو وغیرہ سب زبانوں کے ہزاروں ادیبوں نے
بڑی قربانیاں دی تھیں جس کی طرف ابھی شاستری جی
نے اشارہ کیا ہے۔ اس وقت کے بہادر مجاہدوں نے
لوگرائٹی کاری اگدہن چلائے اس میں ادیبوں اور
لیکھوں کا بھی بڑا مسہورگ تھا۔ یہ دیکھنا چاہئے کہ کن
لیکھوں نے ۱۹۴۷ء سے پہلے آزادی کے لیے قربانیاں
دی اور ان کی ہر طرح سے مدد کرنی چاہئے۔ وہ لوگ
بھونکوں مر رہے ہیں۔ ان کا کوئی پرسان حال نہیں ہے۔

میں کہنا چاہتا ہوں کہ خالی کاپی رائٹ سے کام نہیں
چلے گا۔ اگر سرکار واقعی ریاستدارانہ طور پر ادیبوں کی
مدد کرنا چاہتی ہے تو جو طریقے میں نے آپ کے سامنے
پیش کیے ہیں اسے ان کے مطابق کام کرنا چاہئے۔

PROF. N.G. RANGA (Guntur) : Mr.
Chairman, Sir, I am in favour of the sug-
gestions made by our hon. friends and I am
very glad that Ramavatar Shastri Ji, a free-
dom fighter, has raised this point that the
biographies of the freedom fighters in all
parts of India in their various struggles

against British imperialism and also against the feudal order that we had till the other day, should be published by the Government of India. It should be published not only in English, not only in Hindi, but in all those languages which have come to be recognised by our Constitution. Today some effort is being made by some State Governments to publish the short biographies in regard to the freedom fighters of their respective States. But all the States have not done this. And then what is more, there is a great need from the All-India platform to publish similar volumes of biographies at least of those people who have played a very prominent role and who have made the greatest possible sacrifice. And a bigger effort should be made by the Government of India.

Secondly, I am also in favour of the Government of India constituting a fund in order to be able to help not only the poets, but also those who write useful textbooks for students at the college as well as at the high school level. To-day, as my hon. friend from Kashmir has said, most of these authors are obliged to go about begging, in order to get enough money to get their books printed. We have to save our authors, and prospective authors also from this kind of a trouble, by having a Trust whose main task would be to encourage budding authors, poets and writers in various languages. The sooner who make an effort in this direction, the better it would be for the nation as a whole.

They have what is known as the Book Trust. It has published quite a large number of good books ; but it is not provided with sufficient money, and it has not been acting as effectively and efficiently as one would have wished. Therefore, I would like our hon. Minister to pay special attention to these two suggestions that have been made by Shri Ramavatar Shastri and our friend from Kashmir.

SHRIMATI SHEILA KAUL : I have already covered most of the points, practically all the points ; but I would like to add that Section 19A takes care of the proper payment of royalty, i.e. a new thing has been added to the Bill. In the Ministry of Education and Culture, there are schemes

for helping writers in poverty. There is also a scheme of buying copies of books written by authors. These books, of course, should be of a certain standard. There is a procedure for buying these books. These books are sent to the Ministry ; and they are sent to a Committee. That Committee takes note of all this ; and if it thinks that it is a good book, then copies of that book are purchased. So, there are schemes in the Ministry also.

But most of all, I personally feel that the attitude of the people at large i.e. the public, is important. Why should Prem Chand have suffered ? Now his son is getting royalties ; but during his time, Prem Chand suffered. The same thing happened with Nirala. Why did he suffer ? It is because people of those times did not care for them. It is not only the Government or other agencies but our own people who have also to take interest. We, as people, should take care of these authors. That is what I personally think.

PROF. N.G. RANGA : It is because people are not able to do it, that we expect Government to do it.

SHRIMATI SHEILA KAUL : People must do it.

PROF. N.G. RANGA : If people are far-sighted and sensible enough to do it, there will be no need for Government to do it at all. So, it is the primary duty of the Government in a country like ours. Our people are not in a position to be in the habit of spending money to purchase books, and build up personal libraries. Government should go out of its way to do this.

SHRIMATI SHEILA KAUL : There are Government libraries all over, if you are speaking about libraries. But what I feel is that we must give respect to our authors. Public should show respect to authors. (Interruption). It is not a matter for laughing. I feel it is a serious matter : we must take care of the authors. It is for this reason that the Copyright Bill has been brought. Authors must not suffer, and publishers must not suffer. Whenever anything happens, they go to the Copyright Board, which takes care of these things.

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We are thinking of looking into the points made by Shri Ramavatar Shastri that there should be some literature on freedom fighters.

MR. CHAIRMAN : The question is :

"That the Bill be passed."

The Motion was adopted.

15-40 hrs.

HINDU WIDOWS' RE-MARRIAGE (REPEAL) BILL

MR. CHAIRMAN : We now take up the next item, namely, the Hindu Widows' Re-marriage (Repeal) Bill.

Now the Minister.

THE DEPUTY MINISTER IN THE
MINISTRY OF LAW, JUSTICE AND
COMPANY AFFAIRS (SHRI GHULAM
NABI AZAD) : I beg to move :

"That the Bill to repeal the Hindu Widows' Re-marriage Act, 1856, as passed by Rajya Sabha, be taken into consideration."

MR. Chairman, Sir, the object of this Bill is to repeal the Hindu widows Re-marriage Act, 1856 as passed by the Rajya Sabha on 1st August, 1983. As the hon. Members are aware, the Hindu Widows' Re-marriage Act was enacted in 1856, thanks to the pioneering efforts of a great social reformer, namely Eshwarchundra Sharum who later came to be known as Ishwarchandra Vidya-sagar. This enactment sought to remove all obstacles to the marriage of Hindu widows. It allowed Hindu widows to remarry. It also made certain provisions regarding maintenance, interstate succession and testamentary succession, guardianship and other rights including adoption.

The Act, however, contained provisions purporting to impose on widows certain disabilities, such as, in relation to the right of inheritance of a childless widow. This can hardly be allowed to continue in

the present structure of our society. Accordingly, the Law Commission studied this piece of legislation in depth and had submitted to the Government its Eighty First Report in December, 1979, recommending the repeal of this anachronistic piece of legislation.

The Law Commission has referred to the other enactments, such as, the Hindu Marriage Act, 1955, the Hindu Succession Act, 1956, the Hindu Minority and Guardianship Act, 1956 and the Hindu Adoptions and Maintenance Act, 1956, which not only cover the same field as the Hindu Widows Re-marriage Act, 1856 but also made fundamental and radical changes in the personal Law of Hindus, relating to marriage, succession and guardianship, adoption and maintenance. These four Acts supersede any other Law inconsistent with the provisions of those Acts.

The present Bill seeks to implement the recommendation made by the Law Commission for the repeal of the Hindu widows Re-marriage Act, 1856. I commend this measure to the House.

SHRI AMAL DATTA (Diamond Harbour) : Mr. Chairman, this is a one line Bill to repeal an Act of 1856. On the face of it, it is very innocuous. I am not saying that there is any oblique purpose in the Bill itself. But what is the object of bringing forward the Bill now allotting one hour time when the time of Parliament is so precious that is setting out in the objects and reasons appended to the Bill ? It says that "the Law Commission has recommended that the Hindu Widow Re-marriage Act, 1856, having become obsolete, should be repealed so as to foreclose any possible arguments based on the construction of the provisions of this Act and the later Acts." It is to guard against any contingent argument which may sometimes be taken by any lawyer in the court of law. That is why this Bill is being passed by Parliament. Now, this is really, in my very humble opinion, waste of time, because there has not been in the last not 30 years but at least 27 years—since the passage of the several Bills ; four Bills which have been mentioned here—any argument based on this particular Bill which is now sought to be repealed. But that is not all. In

[Miss Jayalalitha]

Singh, because he has raised something which we should have raised. He has done it on our behalf. I support his objection.

SHRIMATI KANAK MUKHERJEE: I also support it and the Hon'ble Minister should also support it.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. VENKATASUBBAIAH): One point is about the legislative competence of this House. This is a Union Territory Bill and the House is competent to legislate so far as Union Territory matters are concerned.

About the nomenclature, the Metropolitan Council has passed this Bill with this nomenclature.

SHRI JASWANT SINGH: We can improve upon it.

SHRI P. VENKATASUBBAIAH: "Eve-Teasing" is very currently used. If the Hon'ble Member can suggest any better name...

SHRI JASWANT SINGH: I have suggested. Right now I am suggesting that instead of calling it the Delhi Prohibition of Eve-Teasing Bill, why not call it the Delhi Prohibition of Harassment to Women Bill?

SHRI P. VENKATASUBBAIAH: That could be discussed when the matter comes up for consideration.

MR. DEPUTY CHAIRMAN: You can give thought to it.

SHRI P. VENKATASUBBAIAH: In the meantime he can also suggest any other suitable word. About harassment we have already passed a Bill. Further it is a wider term. This is only for a limited purpose. If the Hon'ble Member can suggest any better word, we will have no objection to consider it.

SHRI R. MOHANARANGAM (Tamil Nadu): Mr. Deputy Chairman, 'harassment' will cover women of even 70 years of age. "Eve-Teasing" will not be applicable to them.

SHRI G. VARADARAJ (Tamil Nadu): What about harassment of men?

THE DELHI PROHIBITION OF EVE-TEASING BILL 1984

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. VENKATASUBBAIAH): Sir, I beg to move:

"That leave be granted to introduce a Bill to prohibit eve-teasing in the Union Territory of Delhi and to provide for matters connected therewith."

The question was put and the motion was adopted.

SHRI P. VENKATASUBBAIAH: Sir, I introduce the Bill.

THE COPYRIGHT (AMENDMENT) BILL, 1984

THE MINISTER OF STATE IN THE MINISTRIES OF EDUCATION AND CULTURE AND SOCIAL WELFARE (SHRIMATI SHEILA KAUL): Sir, I move:

"That the Bill further to amend the Copyright Act, 1957, be taken into consideration."

Copyright protection in India is governed by our Copyright Act, 1957. India is a member of the two International Conventions on Copyright, namely, the Berne Convention for the Protection of Literary and Artistic Works, 1971, and the Universal Copyright Convention, 1952.

Our Copyright Act was amended last year with the specific purposes of—

(a) incorporating a provision of the Paris Act of 1971, concerning grant of compulsory licences for translation and reproduction of foreign works required for educational purposes;

(b) providing adequate protection of authors rights; and

(c) removing the administrative drawbacks and other lacunae experienced in the administration of the Copyright Act, 1957.

During the passage of the Bill, Hon'ble Members had repeatedly drawn my attention to the problem of

widespread piracy in the country and expressed concern that the Bill under consideration contained no provision for combating piracy. As the subject-matter was at that time being studied in its various aspects, in consultation with the concerned Government Departments, I had assured the Members that examination of the question would be expedited and that a comprehensive legislation would be enacted which will address itself to the various forms of piracy.

Piracy has become a global problem due to the rapid advance in technology. It has assumed alarming proportions all over the world and all the countries are trying to meet the challenge by taking stringent legislative and enforcement measures. Mainly there are three types of piracies, namely, piracy of the printed word, piracy of sound recordings and piracy of cinematographic films. The object of piracy in all such cases is to make quick money and avoid payment of legitimate taxes and royalties.

Insofar as books are concerned, it is estimated that about four hundred to five hundred titles are pirated every year in India. Apart from books, recorded music and video cassettes of films and television programmes are reproduced, distributed and sold on a massive scale in many parts of the world without any remuneration to the authors, artists, publishers and the producers concerned. The emergence of new techniques of recording and reproduction, combined with the advent of video technology, has greatly aggravated the problem of piracy to the extent that it has become a problem of survival for the legitimate copyright owners. It is estimated that the loss to the producers of cinematograph films and other owners of copyrights amounts to several crores of rupees. The loss to the Government in terms of tax evasion also amounts to crores of rupees. In addition, because of the recent video boom in the country, a large number of video parlours have sprung up all over the country and

they exhibit unauthorised copies of films recorded on video tapes by charging admission fees from their clients. These places have no licences for public viewing and they deal in pirated cassettes. To curb the practice of exhibiting Indian and foreign films by video parlours and other malpractices, the Cinematograph Act of 1952 has been recently amended providing for enhanced punishment for such offences. In view of these circumstances, it is proposed to amend the Copyright Act of 1957 suitably to combat effectively the problem of piracy that is prevalent in the country.

The proposal contained in the Bill under consideration has been formulated in consultation with the concerned Government Departments. The Bill provides, among other things, for the following amendments to the Act, namely:—

(1) to increase the punishment provided for the infringement of copyright, namely, imprisonment of three years with a minimum punishment of imprisonment of six months and a fine of Rs. 2 lakhs with a minimum of Rs. 50,000/;

(2) to provide for enhanced punishment in cases of second and subsequent conviction;

(3) to provide for the declaration of the offence of infringement of copyright as an economic offence so that the period of limitation provided for under the Criminal Procedure Code of 1973 for offences will not be applicable to these offences;

(4) to specifically make the provisions of the Act applicable to video films and computer programmes; and

(5) to require the producers of records, cassette recorders and video film exhibits to display certain information in the video films and containers thereof.

Sir, I am sure that, since these proposals have been formulated to meet the pressing requirements of the present situation with regard to piracy,

[Shrimati Sheila Kaul]

the Bill will be welcomed by all sections of the House.

Sir, I commend the Bill for the consideration of the House.

The question was proposed.

SHRI SUKOMAL SEN (West Bengal): Sir, this Bill is a long-awaited one. I regret to say that this Bill has come before Parliament after a great deal of damage has been done in the country by way of piracy of books, piracy of sound recordings and piracy of cinematographic films. Last year also when the amendment regarding copyright came to Parliament, at that time also many speakers raised the issue that that amendment itself should have contained a provision in regard to piracy of books, sound recordings and cinematograph films. But at that time our suggestions were not heeded to. Anyway, this Bill has come before Parliament. It is better late than never. I welcome the Bill. But, Sir, while welcoming the Bill I would like to say that in the Statement of Objects and Reasons there are some wrong statements. It has been said that piracy has become a global problem. Then it is again said: it has assumed alarming proportions all over the world. Sir, it is not a factual statement. First of all, piracy is not a global problem. It is a problem of the two-thirds of the globe, that is, the capitalist world. Also that it has assumed alarming proportions all over the world is not correct. It has assumed alarming proportions in two-thirds of the world. In Soviet Russia and China, nobody can cite an instance where piracy of books, sound records and cinematograph films has taken place—or take any socialist country. So it is a disease and malady of the capitalist world. And India being a part of the decadent and stinking capitalist society, is also faced with this malady of piracy.

Now, Sir, first of all, this piracy of books that is taking place in our country and other capitalist world. Sir, as regards the capitalist world as a whole, I would like to say that the

Economist of London made a survey and said that some months ago the authors of popular books all over the world were deprived of at least one billion dollars in royalty every year. So, in the two-thirds of the world the authors are losing one billion dollars by way of royalty because of the piracy. And in this country, Sir, every year about 1500 books are printed without permission and sold at 60 per cent of the price of the original edition. I do not know where the Minister is going... (*Interruptions*)

SHRI NIRMAL CHATTERJEE (West Bengal): She has got a copyright of the Minister... (*Interruptions*)

THE MINISTER OF STATE IN THE DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI KALP NATH RAI): I am noting down the points. (*Interruptions*).

SHRI SUKOMAL SEN: Sir, this piracy of books has taken such alarming dimensions in our country that celebrated authors like Harold Robins and Irving Wallace—even their books are being re-printed here, without permission, and sold at Rs. 10 per copy. The actual value is more than Rs. 10 when we import books from the actual publishers. Not only that, Sir, a recent survey in Delhi has revealed—and it is very interesting—that a book entitled 'Conspiracy' which was attributed to Irving Wallace, the popular author and another books entitled 'Spell Binders' which was attributed to Harold Robins were sold in Delhi markets. But it was found that neither Harold Robins nor Irving Wallace are the authors of these two books. They are completely pirated books and the authors' names were criminally imported in those books. In this way the books were sold in the capital city of Delhi, without any hindrance. And these things are going on not only in Delhi but throughout the country. I do not know whether the Government has taken any steps to curb this piracy of books which is

prevailing in the country. As regards video piracy, it has assumed a very formidable dimension and I will come to that later on. Regarding film piracy, recently one Bombay film producer found that the film produced by him and not officially released was being shown in some cinema houses. The investigations revealed that the pirated version of his film was being freely distributed and exhibited in some cinema houses. It happened in Bombay city.

As regards video piracy, the Bill mentions the dimensions it has assumed, in the Statement of Objects and Reasons. When some celebrated singers perform publicly, their music and songs are stealthily recorded and then reproduced through modern technology into cassettes and then sold freely in the market without paying any royalty to the original singers and musicians. This way also, the musicians and the singers are losing money. A boom in the piracy of sound recording is going on in our country. This video piracy got a boom particularly when during ASIAD the Government took a decision to liberalise imports and reduce duties on colour T.Vs. and Video Cassette Recorders. Today, the number of cassette recorders in this country runs into lakhs. Pornographic films in particular are doing good business in the country. What has been the effect of this pirated pornographic films on the cultural atmosphere of the country? We find that there is a decadence in culture in the western world and in capitalist countries which is spoiling the young boys and girls and the society. The pornographic films have a good market all over the western world. This pirated pornographic films are being reproduced and sold freely every where in our country. If you make a survey, you will find that our villages may not have drinking-water tubewells or a primary school, but they will have some video centre where these video films, these pornographic films, will be shown at exorbitant rates. It is also making a

cultural invasion of our country spoiling our social fabric. Unless we become alert about it, I do not know what will happen to the new generation of our country.

Apart from books, films and videos, recently in London they discussed about this piracy in their Parliament and found that it existed not only in books or sound recording or cinematographs, but also in computer programmes. The British Parliament appointed a committee to go into this thing and report to the Parliament for adopting suitable legislation to stop piracy in computer programmes. So, Sir, this danger that we are facing is a part of the capitalist world. I feel that this Bill will try to check this piracy. But, Sir, I am afraid, that the law enforcing

1 p.m.

machinery, unless that remains incorruptible and clean, howsoever stringent a Bill we may pass in Parliament, that cannot be a effective to curb this piracy.

Then, Sir, there is another malady. Whatever is happening in our country about this unlawful video exhibition, unlawful showing of cinematograph, as it happened in Bombay, everything is happening here with the connivance of the police and sometimes also with official patronage because money works everywhere. (Time bell rings)

Then there is also another danger. Recently the Supreme Court has given a verdict about importing some material as a transit measure. Some materials were imported from Singapore to Calcutta port and it was to go to Nepal. Meanwhile, these things were pirated. The materials were such that they were pirated and cassettes were produced in our country and sold. The Calcutta High Court gave a judgment. Then the matter came to the Supreme Court. The Supreme Court gave the verdict that even if some material is imported for transit purpose, and it can be used for piracy, even that type of import should be banned. That was

[Shri Sukomal Sen]

the verdict of the Supreme Court. I think that verdict can go to a certain extent in curbing piracy in our country. (*Time bell rings*)

So, Sir, while welcoming the Bill, I would request the hon. Minister to see that this Bill, when enacted, is properly enforced and particularly that it should be ensured that the law enforcing machinery remains clean and incorruptible because otherwise the Bill will have no meaning. With these few words, Sir, I conclude.

MR. DEPUTY CHAIRMAN: Mr. Ramakrishnan, you start now and then you will continue after lunch.

SHRI R. RAMAKRISHNAN (Tamil Nadu): Sir, I thank you very much for this opportunity, and I wholeheartedly welcome this Bill. It is one of the few Bills on which the Government gave an assurance only a few months back and in double quick time they have brought forward this legislation.

MR. DEPUTY CHAIRMAN: You may continue after lunch.

अब सदन की कार्यवाही 2.00 बजे तक
के लिए स्थगित की जाती है।

The House then adjourned
for lunch at three minutes
past one of the clock.

The House reassembled after lunch at two minutes past two of the clock,

The Vice-Chairman (Shri Syed Rahmat Ali) in the Chair.

SHRI R. RAMAKRISHNAN: Mr. Vice-Chairman, Sir, I feel that at long last, the Government has realised that like corruption, even piracy has become a global phenomenon. What I would say is that it is not enough to recognize it as such. We have to tackle this problem in a proper manner, and to this end, this Bill has been brought, which is a most welcome measure.

Now, coming to the point, the Bill itself identifies and says that broadly there are three types of piracies, namely, piracy of written words, piracy of sound recording and piracy of cinematograph films. First I will come to the piracy of books, which is taking place on a massive scale in our country. Today, in the bazar, whether in Delhi, Bombay or Madras or Calcutta, in almost all the pavement shops and other bookshops, you can find a number of books which are pirated editions and which you can even see by the cheap quality of printing. While some of them are doing signal service in the cause of our poorer sections of society because they are available at cheap prices, this is rather unfair to the persons who have written these books and who are dependent on the royalty, and also unfair to the publishers who are dependent on the sale of these books. Sir, in this connection, I feel, the Government can easily seize these books, find out who has printed them and take positive action against pirators. Only this will instill confidence in the minds of the public. The Indian Book Publishers Association, two years, back, on the same Copyright Bill, submitted a memorandum to the hon. Minister containing all the various things which can be done and giving suggestions which, I am sure, the Government will look into.

Coming to the piracy of sound recording of tapes, I am very sorry to say that India occupies fourth place in the world, as far as sound recording piracy is concerned, coming after Turkey, Peru and Greece. This is a very ubiquitous distinction on our country and I feel, it is not the intention of the Government to allow it to go on. More particularly, what is sad to see is that the capital of the country, namely, New Delhi, and particularly the Lajpat Rai Market, has become the nerve centre of music piracy. In the Lajpat Rai Market, according to newspaper reports, every 8 out of 10 pre-recorded music cassettes in the country are being

manufactured. They are sold under various trade names like 'New T series', 'Play Boy', etc. And there are three types of these phonographic duplications. One is called a pirated product. That means an unauthorised recording or a duplicate cassette which looks different from the original. The second one is called the counterfeit product which is an unauthorised duplicate cassette packed to look like original. And the third one is called a 'bootleg' product which incorporates an unauthorised recording of a live broadcast or performance. The first two types are more predominant in our country and the enquiries reveal that the music pirates are having a number of duplicating machines which they are even sub-letting to small people. Lajpat Rai Market is carrying on almost 95 per cent of such activities in the country. Indian phonographic industry has made frantic appeals to the Government for some relief so that they may keep pace with these pirates till some action is taken against them. I do not know what action Government proposes to take, but I appeal to the Central Government that something radical must be done immediately if this is got to be checked.

Then I come to the more important thing, that is, the piracy of films. This has assumed alarming proportions. The video craze, though it is to be welcomed in as much as poorer sections of the society, even the lower middle-class people today are able to see films at a cheaper price, I do not think in the long run will do good for the film industry in the country which is doing yeoman's service over the period of time. Film is mass media and recognising the video craze and the video piracy the Tamil Nadu Government under the dynamic leadership of Puratchi Thalaivar Dr. MGR, brought forward an Ordinance which was later converted into a Bill, called Tamil Exhibition of films on television screen through Video Cassette Recorder Regulation Bill. This Bill was brought forward to put an end to

the shattering of cultural and moral values through an instrument of scientific and moral change. No doubt, the lobby of the pirates is very strong. They went in for a stay order to the High Court and later to the Supreme Court. In spite of it, they are now enforcing it by requesting that all the video parlours and libraries should get a licence from the State Government, from the District Collector or the Commissioner of Police and also each cassette which is recorded should have a consent of the person who originally started it. The Government of India should take a lead from this Tamil Nadu Ordinance and Bill and see that these regulations are enforced in all States. Sir, due to video piracy film makers are losing a lot of revenue. Here is a report from Britain which says that nearly half of the children between the age of 7 to 16 have seen a film nasty, blue film as you may call it. The report is based on the study made of over 3½ million children all over the world by Kilford Hill. Sir, this report reveals so many things and it is time that the Government of India took strong action to see that this sort of blue films are not exhibited. In this connection, the Education Minister should also take the help of the Customs authorities because most of these films are being smuggled into the country along with the domestic package. The easiest thing to do today is to get a finished copy of the film and pirate it. All that is required is just a wire and a duplicating machine and then the video cassettes are exhibited all over the country. Therefore, the Government of India should direct all the State Governments to see that these video parlours and libraries are periodically raided and the cassettes in the possession of the video parlour owners are checked. In fact, the situation became so alarming that the Bombay film industry, Devanand and a few other actors, started an anti-piracy organisation, took the law into their own hands and started raiding video libraries with the help of the socio-

[Shri R. Ramakrishnan]
minded citizens. So, that is the situation. In this connection I would like to urge through you, Sir, the Government of India to immediately declare cinema as an "industry". This has been a long pending request of the Tamil Nadu Government and so many other State Governments but the Government of India is dragging its feet on this. Today cinema is mass entertainment and despite the advent of video, it has been able to stand so far. But I do not know really whether it can stand for any length of time. Therefore I feel that this is an opportune time for the Government to have a thorough rethinking on the issue and declare cinema as an "industry" immediately.

Coming to the specific provisions of the Bill, I welcome the stringent punishment which is envisaged for both the first conviction and for subsequent convictions. Also they have specifically made the provision for the Act to be applicable to video films and even computer programmes which Mr. Sukomal Sen was referring to. It also requires the producers of records and films to display certain information on the records and films on the container itself. These provisions are most welcome and I am sure that the time and inclination which many of our Indian video pirates take in duplicating, will be devoted to trying to do some other important things like Japan and Taiwan are doing in the case of transistors.

Before concluding, Sir, I would only say that the most important aspect to which the hon. Minister should apply herself is the enforcement of the regulations of this Bill and she should see that special squads are set up and also an Advisory Committee consisting of various persons interested in this be also appointed so that they may advise the Government of India from time to time and periodically review the steps taken to enforce those regulations.

With these few words, I welcome the Bill.

श्री रामचन्द्र भारद्वाज (बिहार) :
मान्यवर, कापीराइट एक्ट का जो इतिहास है यह बड़ा लम्बा है। जब हम आजाद नहीं थे। तब यूनाइटेड किंगडम के कापीराइट एक्ट से हमारा काम चलता था। उसे कहते थे यूनाइटेड किंगडम कापीराइट एक्ट 1911, बाद में उसमें भारत वर्ष का नाम जोड़ दिया गया और यूनाइटेड किंगडम एक्ट का, इंडिया कापीराइट एक्ट, 1914 करके नाम हुआ फिर उसके बाद हम इस दिशा में आगे बढ़े।

1948 में पहली अंतरराष्ट्रीय कांग्रेस हुई, उसे वर्न कन्वेंशन के नाम से पुकारते हैं और वह जो था वह राष्ट्रीय कन्वेंशन फार द प्रोटेक्शन आफ लिट्रेरी एण्ड आर्टिस्टिक वर्क्स हुआ, उसके हम सदस्य हुए। 1952 में आकर जेनेवा में यूनिवर्सल कापीराइट कन्वेंशन हुआ और उसके भी हम सदस्य हुए। जब भारत आजाद हो गया और बदली हुई परिस्थितियों में जब यह देखा गया कि पुराने कापीराइट एक्ट, प्रतिलिप्यधिकार विधेयक, से हमारा काम नहीं चल रहा है तो पंडित जवाहरलाल नेहरू जी के नेतृत्व में महान शिक्षाविद मौलाना अब्दुल कलाम आजाद ने कापीराइट बिल का सर्वांगीण संशोधन किया। बदली हुई परिस्थितियों में नये वैज्ञानिक वातावरण में उसका संशोधन, परिवर्द्धन हुआ और उसे कम्प्लीट रिवीजन की संज्ञा दी गई।

मान्यवर, आजाद साहब ने भी जब इसकी कल्पना की तो उन्होंने जो वक्तव्य दिया, उस विधेयक के साथ उसमें साफ शब्दों में लिखा है कि हमने जीवन के विभिन्न क्षेत्रों में काम करने वाले और देशों के चारों ओर बसने वाले लोगों की आकांक्षाओं को जाना है, हमने उनकी

राय ली है और इस नतीजे पर पहुंच कर इस विधेयक को सामने ला रहे हैं। यह बड़ा साहसिक कदम था और ऐतिहासिक कदम था जो कि हमारे स्वतंत्र भारत के इतिहास में मौलाना साहब ने उठाया। मुझे इस बात की बड़ी प्रसन्नता है कि हमारी महान नेता श्रीमती इंदिरा गांधी के नेतृत्व में श्रीमती शीला कौल जी ने यह एक दूसरा कदम उठाया है जो उससे आगे का कदम है। सन् 1983 में भी सदन से हमने उस संशोधन विधेयक को पास किया।

हमने उस वक्त भी सुझाव दिये थे। उन्होंने उन सुझावों पर भी गौर किया है और इतनी तत्परता दिखाई कि 1955 के बाद और 1957 के बाद जिस विषय पर विचार किया गया 1983 में, उसको पुनः 1984 में आज इस अग्रस्त के ही या सितम्बर महीने में हमारे पास यह विधेयक सामने आया है, इस पर विचार करने के लिये।

कहने वाले कहते हैं कि सिनेमोटोग्राफ एक्ट जो हमने बनाया था, उसके पूरक के रूप में भी इस की आवश्यकता थी। बात सही है; क्योंकि आज विज्ञान के चमत्कार से जो कुछ हो रहा है कला के क्षेत्र में, संगीत के क्षेत्र में और उसकी पाइरेसी के क्षेत्र में, वह चिंता का विषय है, रहा है और अभी मेरा विश्वास है कि काफी दिनों तक रहेगा।

मान्यवर, एक बात की ओर ध्यान दिलाना चाहता हूँ—इस विधेयक पर मैं आऊँ, तो इस विधेयक में सख्त सजा की व्यवस्था की गई है, कठोर सजा देने का प्रावधान है। जूडिशरी में निर्णय में देर होती थी, पुलिस को अधिकार दिया गया है फिर जैसे अभी रामाशुण्णन जी ने कहा, बार-बार अपराध करने वालों के लिये अलग प्रकार के अपराधियों

को कोर्ट में उन्हें रखकर नई सजाओं का इस में प्रावधान किया है और इस अपराध को नान-कान्जीबुल आफेंस को फिर कान्जीबुल बना करके संघीय बना कर एक बड़ा महत्वपूर्ण कदम सरकार ने उठाया है और इसके लिये हमारी राज्य शिक्षा मंत्री जी बघाई की अधिकारणी है।

मान्यवर, आफशोर पाइरेसी, ट्रांजिट पाइरेसी, यह सब तो बड़ी छोटी-छोटी चीजें रह गई हैं, कम्प्यूटर की बात और वीडियो की बात विज्ञान के नये युग में अब पीछे पड़ती जा रही है। अब तो फ्यूचर फोटोग्राफी की बात हो रही है और यह फ्यूचर फोटोग्राफी की स्टेज तक हम पहुंच चुके हैं यह दुनिया पहुंच चुकी है, अथवा दुनिया का कोई देश पहुंच चुका है, तो हमारी जवाबदेही इस दिशा में उत्तरोत्तर बढ़ती जा रही है और मुझे ऐसा लगता है कि इसे इकनामिक आफेंस कहने में या इसे संघीय अपराध कहने में कान्जीबुल आफेंस कहने में, या इसे पुलिस के हवाले करके जल्दबाजी करने के लिये जूडिशरी से लेकर अलग काम करने में कोई बहुत बड़ा न्याय मिल जायेगा, इस की सम्भावना मुझे नहीं दीखती है।

मान्यवर, इस में सबसे बड़ी उपेक्षा जो आज हो रही है, वह साहित्यकारों की हो रही है, कलाकारों की हो रही है क्योंकि इस कापीराइट विधेयक की परिवर्तना ही राइटर्स और आर्टिस्ट्स को लेकर के हुई थी और जो जेनुइन राइटर्स और आर्टिस्ट्स हैं, वह लगता है कि वह पीछे छूटते जा रहे हैं और यह जो विज्ञान का डिस्को युग है, वह हम पर हावी हो रहा है

[श्री रामचन्द्र भारद्वाज]

और वीडियो से लेकर कम्प्यूटर तक की बात करके हम रह जाते हैं ।

माननीय, जब मौलाना आजाद ने इस विधेयक को पेश किया था, तो उन्होंने कहा था कि—

“Apart from the fact that the UK Act does not fit in with the constitutional status of India, it is necessary to enact an independent, self-contained law on the subject of copyright. In the light of growing public consciousness of the rights and obligations of authors, new and advanced means of communication like broadcasting also call for certain amendments.”

इसलिए हर जगह लेखकों की प्रधानता दी गई और पेरिस में भी यह कहा गया, ब्रुसेल्स कन्वेंशन को भी राइटर्स की कन्वेंशन माना गया और पेरिस में भी जो कुछ घोषणा हुई, उसके अनुसार 1971 में उसके प्रथम अनुच्छेद में ही कहा गया—

“Each Contracting State undertakes to provide for the adequate and effective protection of the rights of authors and other copyright proprietors in literary, scientific and artistic works, including writings, musical, dramatic and cinematographic works, and paintings, engravings and sculpture.”

मुझे ऐसा लगता है कि इस विधेयक में बार-बार संशोधन ला कर ऐसा किया जा रहा है कि जैसे जब-जब जो अभाव सामने दिखाई देता है हम टुकड़े-टुकड़े कर उन अभावों को पूरति कर रहे हैं और इस बात का हम भूल गए हैं कि जिन लेखकों और कवियों के कर्षों पर चढ़ कर यह आजादी हमारे पास आई है, जिन लेखकों और कवियों ने हमारे राष्ट्र का उद्बोधन इस तरह

किया कि हमारे बीच राष्ट्रीय भावना जागृत हुई, जिन की कविता और साहित्य के बेल पर हमारे बड़े महान नेताओं ने जेल के दिन सुख से काटे और अपना मनोविनोद भी साहित्य के माध्यम से करके वे जेल जीवन बिताते थे, शायद हम इस बात को भूल गए हैं । उदाहरणार्थ मैं कहना चाहता हूँ कि हजारीबाग में जब डाक्टर राजेन्द्र प्रसाद जेल में थे तो फुलवाड़ी कैम्प पटना के पास में था, जिसमें कोई सुविधा नहीं थी । यहां के कैदियों ने एक पत्र भेजा जिसमें उन्होंने शिकायत की थी कि आप जो हजारी बाग जेल में हैं, सेंट्रल जेल में हैं, और हम लोग यहां कैप जेल में तड़प रहे हैं । कविता में उत्तर आया । राजेन्द्र बाबू ने कहा कविता में पत्र आया तो कविता में उत्तर दिया जाना चाहिये । कविता में यह उत्तर आया कि :

“दोनों कुंज तपश हैं धारों,
दोनों दुख की वारों,
चाहे उसे कही फुलवारी,
चाहे बाग हजारी ॥

तो इस प्रकार अपना मनोविनोद भी ये बड़े बड़े लोग साहित्य के माध्यम से करते रहे । साहित्य से प्रेरणा लेते रहे । एक छोट सा उदाहरण है मान्यवर, हजारीबाग जेल में संत राम का एक वार्डन आया जो चंदन करता था, मगर बड़ा ही बदमाश था । उनको देखकर इन सभी लोगों ने मिलकर कहा कि इस पर कविता होनी चाहिये । क्रोध होने के बजाय कविता का सहारा इन्होंने लिया, क्योंकि उन दिनों कोमेयना था और उसमें से एक कविता बनी, जिसमें लिखा गया कि,

“देखन में संत राम, करनी असंत राम
कुल्लू बसंत राम, नाम है अनंत राम ॥”

उस बार्डन का नाम अनंत राम था। मैं यह उदाहरण मात्र इसलिए पेश कर रहा था कि हम इस बात को समझें, महभूसे कि हमारे साहित्यकारों ने इस राष्ट्रीय आन्दोलन में, इस आजादी की लड़ाई में जो भूमिका अदा की है, आज भी उसी स्थिति में, उसी दुख में बिल-बिलाते हुए पड़े हुए हैं, जिस स्थिति में वे आजादी के पूर्व थे, इस पर विचार करना होगा। क्योंकि मूल रूप से मुझे लगता है कि साहित्यकारों की उपेक्षा हो रही है और आपने रायल्टी को कोई मिनिमम चीज मजदूरों के लिए तो आपने न्यूनतम मजदूरी, तय कर दी है, लेकिन किसी लेखक की न्यूनतम मजदूरी आज तक तय नहीं हुई। रायल्टी की एक न्यूनतम राशि आज तक तय नहीं हुई। अगर पांच वर्ष तक उसका प्रकाशक कोई किताब नहीं छपवाता है, दूसरा एडिशन दस वर्ष तक तो वह स्वतंत्र है कि वह स्वयं उसे छपवा सके और दूसरे प्रकाशक को दे सके इसकी कोई व्यवस्था नहीं हो सकी। आज जहां तक सप्लायी का सवाल है, जहां किताबों को सरकारी लायब्रेरीज में दिया जाता है, वहां स्थिति यह है कि जहां सस्ती किताबें मिल ही नहीं सकती, लोग किताब पढ़ ही नहीं सकते। क्योंकि अगर 60 रुपये कीमत होनी चाहिए तो प्रकाशक उसकी कीमत 120 रुपये रखते हैं। इसलिए 50 प्रतिशत का उस पर खर्च बांटते हैं कि यह सप्लायी का खर्च लगेगा। मैं चाहता हूं मान्यवर, यह हमारा दायित्व है कि सर्वांगीण रूप से हम इस विधेयक को एक नए सिरे से देखें। यह हमारा दायित्व है कि हम सजा कठोर करके अपने को निश्चित न मानें। यह हमारा दायित्व है कि इकनोमिक ओफेंस न मान कर हम अपने को निश्चित न मानें। यह हमारा दायित्व है कि इसे संघीय अपराध कह कर हम इसे एक बड़ा रूप दे कर

उसके लिए समझें कि हमने सब कुछ कर लिया। ऐसा नहीं है। हमने कुछ नहीं किया है। अभी बहुत कुछ करना बाकी है। अभी जितना जो कुछ हुआ है श्रीमती इंदिरा गांधी के नेतृत्व में श्रीमती शिला कौल ने इतनी तत्परता के साथ किया है कि उस पर गर्व से हम वह लेखकों का भी, हम साहित्यकारों का, कलाकारों का भी मस्तिष्क ऊंचा हो जाता है। मैं आपके माध्यम से माननीय शिक्षा मंत्री जी से यह अनुरोध करना चाहता हूं कि वे इन बातों को देखते हुए और कोई इस प्रकार की प्रवर समिति के संबंध में सोचें जो एक साथ सारी बातों को और भविष्य में होने वाले वैज्ञानिक अनुसंधानों और अन्य अनुसंधानों से होने वाली स्थिति को देखकर कोई नया रास्ता ढूँं जिससे सभी आपस में अपने को सुरक्षित मानें। धन्यवाद।

SHRI SUSHIL CHAND MOHUNTA (Haryana): Sir, as the other hon. Members of the House have done, I also welcome the broad outlines of this Bill. But I would like to add that the Bill itself is a piratic act. This should have come much earlier. You have copied this idea also from other countries. This electronic system, the electronic technology, the digital technology and the computerisation, all these technologies were there well in advance in the world, and slowly and slowly some big bosses, big people, privileged people, occupying high Governmental positions, were already getting them from foreign countries. It is only very recently, only a year or two years back, that a general trend has been seen to import these, VCRs and imported TV sets, all these things. Otherwise, this technology systems depicting this technology were in existence long ago in the rest of the world, and this problem was tackled in those countries. I do not understand why you always want to copy other countries. You should have imagined, anticipated in advance, that India cannot remain isolated. This

[Shri Sushil Crand Mohunta]

technology is bound to filter into this country. You should have been well prepared with your laws before this technology overtook this country.

But apart from that, though you are late, you are welcome. But two things of this Bill, I cannot support: Number one, you have put the pirate and the person who exhibits a particular film or a video film as a result of that piratic act, in the same category. There should be a difference. Now-a-days the VCRs are quite common. People do not go and check videos in the video library. They do not take each and every cassette and find out its authenticity, find out its certificate, find out whether it is genuine or not, it is proper or not, whether it is properly certified or not, Nobody goes into that. It is a daily affair. They go to a video library, ask for a cassette and take it and play it. You have given sufficient powers to police officers to raid any premise, even a private premise, obtain a warrant and seize the video films not properly certified. This is not good. Do not include the victims of the piratic act in criminals. They are not criminals. They want entertainment, and they go and pay for it.

The persons who have stolen have committed a theft. It is a pure and simple theft. The piratic act or whatever you call it, the pure and simple theft, should be on look out by everybody. And the moment this theft takes place, the people who do it in an organised manner are really those who should be traced and caught. There you need a network of intelligence people, a separate department altogether, to look to various shops dealing in video libraries and houses where video libraries are kept etc. etc. You need a big staff, a big agency, to locate them because if you can control them at source, then, of course, automatically nobody will be able to get a pirated article, a pirated cassette, and play it. So, in any case, please exclude from this Bill the person who plays a video cassette.

He should not be treated as a criminal on the same level, on par, with the person who is responsible for this piratic act.

Another dangerous feature which emerges out of it is this. Some good television programme is there. A person who has got a cassette and he wants to enjoy the television programme or some times he is not present in the house to look at the television programme for some reasons and he asks somebody in his house to record it so that he can come and have a look at it. But according to your Act that would be an offence because he is doing without licence—he is recording without a licence. Then he would be playing, it is an offence. Any person who tape-records the music from the All India Radio whether it is film music or folk music is also guilty of piratical Act because that was played by the All India Radio and the AIR has paid for it. Now, this person is taking honest tape-recorder music and would be playing number of times if the music is good—could be copied by more tape-recorders having duplicate cassettes at different places. But according to you, it is a piratical Act. That is wrong. Please exclude these people. Don't involve the whole population of this country into this criminal Act. You have already made the whole nation look to be dishonest in the eyes of the world. We are one of the most honest people in this world. Indians are the most honest persons in this world. But by your wrong laws and wrong priorities you have already made the people look dishonest. You go to any place everybody is dishonest today. Now the things have changed, it cannot be avoided. What cannot be avoided naturally everybody becomes dishonest. Kindly don't bring the whole nation into the purview of this Act of criminality. Please exclude these people. That is my first point.

My second point is: don't make the punishment so heavy because severer the punishment, you know better of your officers. We have seen even Sub-Inspectors, Inspectors, Chief

Secretaries, Secretaries, etc., how they are spineless. Don't entrust such severe punishments in the hands of these people for detection. Because what is going to happen, a person who can pay in sufficient lot of money will be able to avoid the detection and the person who cannot satisfy their monetary demands will be put behind the bars. So don't make it an instrument by which crime may not be detected. Don't detect persons who may not come on record. Kindly make the punishment at such a level which should be difficult for a person to pay and another person to feel satisfied about it. This is my second point.

The third point which is also relevant because ours is an under-developed country. We are coming up fast in technology. Technology at present is advanced in western countries and communist countries. Their text-books and literature books give an insight into the advanced technology, run into fabulous prices. It is not possible for a poor country like ours where poor people cannot avail themselves of those high priced text-books or high-priced books with those technologies.

We had in Bonn and Stockholm international meets and we were a party to it. We made certain proposals and they were not accepted by other international countries with the net result all those proposals fell through and took advantage of it. Because if there is no bar on those text-books, they should be allowed to be copied and distributed amongst your own countrymen at far a less a price so that it is available to everybody to compete with other foreign countries. I can understand. Whereas your talent, art and literature is being copied, sold and pirated—and released to foreign countries. In those countries they do not have a corresponding law. If an additional book is written in India and if that book is pirated in America, I cannot understand why you are imposing a law that any book written in America cannot be pirated in India. This thing

goes on, and I can tell you that a lot of information, knowledge regarding modern technology has been exchanged between the various parts of the world through this system. Instead of buying such high-priced and expensive books, these books have been regularly printed and reprinted in their own countries and distributed at much lesser prices. So don't forget that by having such high punishments and by having this law which you have drafted, you will be cutting out the high technology books written in other countries and you will be keeping them away from your own countrymen, and thereby making the technological progress in our country slower. This is not good.

One more thing that I wanted to bring to your notice is that we in India have got a number of places of old architecture, old designs, old monuments and they all have a very high value. Foreigners come here, take photographs of those places and take them to their homes, print them and reprint them and distribute them all over their country. Thereby, your Archaeology Department, your own country, is deprived of very valuable wealth. If you had not allowed them to do it, then perforce they would have had to get these photographs or prints from this country itself, and they would not have been able to get them in their countries. And your country would have earned a lot of foreign exchange. But you have not been active on that front, where you should have been active. You are trying unnecessarily to give importance to things which should be ignored. Therefore, I am saying that this Bill, though I welcome it, is incomplete and it will not serve the purpose. You do not have the infrastructure to detect all these crimes. Therefore, kindly give a thought to it and bring it in a comprehensive manner so that it may really serve this purpose. Thank you.

SHRI SANTOSH KUMAR SAHU
(Orissa): Mr. Vice-Chairman, Sir, I rise to support the Copyright

[Shri Santosh Kumar Sahu]

(Amendment) Bill, 1984, as it is needed very urgently. Most of the hon. Members who have spoken have supported it because the world is passing through a seething change in technological innovations in which, if we want to stand on our own feet, we have also to make Acts, rules and regulations to suit the circumstances.

Very rightly, in the Statement of Objects and Reasons, the Minister has said that piracy has become an international problem. If we go into history, we see that the first country in the world in this matter was the UK which had some provisions on copyright in 1586. Then the Berne Convention was in 1956, which took the opinion of different countries on this question of piracy of copyright or multiplying the original works of some authors. Then there was the Pan-American Convention. And at the instance of UNESCO, the Universal Copyright Convention was framed in 1952. The hon. Minister has mentioned in her speech about the other Geneva Convention. So I need not go into it. But the basic point is that we shall have to provide for stringent punishment for video film exhibition and other things, not because the film producers want it, but because it is more important, to my mind, to preserve the cultural heritage and values of yore of India. If we read the Kothari Commission Report, we find that it has been pointed out in that report that probably 5,000 years back, the pipeline of knowledge and spiritualism went from this country to the other side of the world. But unfortunately in the age of science and technology, we are almost waiting at the other end of the pipelines to get information from foreign countries. This is unfortunate. We have to take critical note of the fact that the video films, especially the cheap and decadent films, which are coming into this country from outside, are affecting the younger generation of this country. It is not a question of this side or that side. It is a national

question. We must have stringent measures. We must have a check over it; otherwise, we will probably be passing through a very critical stage in our cultural history where we will forget our ethos and the values of our rich heritage. Coming to the Bill, we have seen in other countries they have done it. As has been rightly pointed out by my predecessor, Shri Mohunta, this law is not the same in the other developed countries of Europe or in Pan-American countries. We have to consider three kinds of persons who are concerned in the exhibition of books or films or cassettes or music. The first is the viewer who is in need of good books, who is in need of good music, who is in need of good films. He has a craving to acquire these things. The second is the category of people who, with a profit motive, pirate and send books to the market. I entirely agree that there must be stringent measures of punishment to persons who circulate such books in the market. The common man goes to the market to buy books. But he does not know that the book is a pirated book. There is no means available to him to find out which book is a pirated book and which not. Therefore, there must be a foolproof provision to ensure that piracy is stopped. Then, the world is passing through a technological revolution constantly. We do not know how our younger generation will get access to the technological books. Such books must be made available at a proper and reasonable price.

Then, the incorporation of video films in Section 2 is very good, together with the Explanation of definitions. Definitions of duplicating equipment and other things have been properly placed in the Bill.

Then, coming to Clause 3—amendment of Section 51 of the principal Act—it is stated:

“In Clause (b):

(a) in sub-clause (iv), the brackets and words ‘(except for

the private and domestic use of the importer) shall be omitted;

(b) the following proviso shall be inserted at the end, namely:—

'Provided that nothing in sub-clause (iv) shall apply to the import of two copies of any work, other than a cinematograph film or record, for the private and domestic use of the importer.'

Here why do you restrict them to bring only a record or film? There are many musical instruments which music lovers might like to bring in. Why should they not be extended this facility? In the Annexure to the Bill I refer you to Section 51 which says—

"Copyright in a work shall be deemed to be infringed—

(b) when any person—

(iv) imports (except for the private and domestic use of the importer) into India, any infringing copies of the work.

Explanation.—For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematograph film shall be deemed to be an 'infringing copy'."

By the insertion of this provision, if a music-lover brings a record—it is a small thing—he might be penalised under this provision. This anomaly should be removed.

Then there is another point. A man likes to produce something for his own use, not for exhibition, not with any profit motive, but purely for his own personal use, for his personal satisfaction. The question is whether he will be protected from the penal provisions of this Act. This is a very vital question.

I would submit that it is a very timely Bill. There has been need for a measure like this. We have seen reports how various countries have framed different Acts on this subject. The Geneva Convention of 1981 and

1983 in which our Government also participated and to which our Government also subscribed, made recommendations in this regard. But the basic question we have to think of is the price of books. During the last 10 years the prices of books have risen enormously. I was accustomed to buy books earlier. Now I have no money if I want to buy a good book. Good works must be cheaply provided to people. Of course, Government have taken some steps such as supplying paper. But unfortunately if you go to the market, it is not possible to get a good book at cheap price. This aspect also should be considered. I wholeheartedly support the Bill and I feel that there should be an intensive discussion of these problems because we are interested in the cultural development of the country as well as in the need of the younger generation to get better knowledge.

It is very good that stringent punishment is provided in the Bill. We have only said that the agency to enforce the law will be a Police Officer. There may be a Copyright Committee or Copyright Commissioner. India is a vast country and there are so many video films. I do feel that one agency is not sufficient. Under the Cinematograph Act there is the Entertainment Officer. Suppose we make a provision that this Entertainment Officer can also examine video films, that will strengthen the State Governments.

With these words, I congratulate the Minister. Let us see how the video piracy is going to be controlled.

SHRI LAL K. ADVANI (Madhya Pradesh): Sir, I rise to support this Bill though, however, I cannot endorse what the previous speaker has said. He said that it is a very timely measure. If this had been brought in August 1982, I would have called it a very timely measure. In fact only a few days back in this House, in this very session itself, there was another amendment to the Cinematograph Act with which the Minister for Edu-

[Shri Lal K. Advani]

cation is not concerned. It was piloted by the Minister for Information and Broadcasting. These two Bills ought to have been brought in August 1982. This was delayed by two years. There are matters in which I believe that delay to take action very often proves near fatal to the cause for which the action is taken. I do not know whether the Minister is posted with the dimensions of the video piracy problem. I have only read articles; I have only read literature in this regard. I have already seen what is going on in particularly the bigger cities. I know that in Bombay itself there are 2,000 video parlours. This is in one city alone. As far in distant as Leh, in Ladakh, there are 13 video parlours. The number of video parlours in the country runs into tens of thousands. And the number of video cassettes going round the country runs into millions. All this growth is of the last two years.

I was checking up with friends in the film industry and they told me: "You can assume that almost all these cassettes are pirated", because till now the process of giving domestic rights for films to the cassette producers has not properly started.

Therefore, even though I endorse the Bill and I support the Bill, I do so only on the principle that better late than never. Nothing more.

Yesterday when some of my colleagues here were keen to see that the House adjourned early, I felt that this Bill which has been pending for a long time should be passed as early as possible.

The Bill deals with three aspects, that is, piracy in books, piracy in sound recording and piracy in films. I am confining myself mainly to the third aspect of the Bill.

Sir, it is not possible for any country to remain insulated from the growth of technology. The spread of video technology has its consequences, consequences in the field of education,

consequences in the field of entertainment, consequences in the field of information and consequences in the field of culture. It is the duty of the State and it is the duty of the society to ensure that the deleterious consequences are kept out and the healthy consequences are allowed in. The consequences should have been anticipated, and steps taken in time. Because of the delay this law is not going to do much now. Can the Minister inform us as to how the pirated cassettes already in circulation are proposed to be dealt with? Thousands of video libraries in the country have been indulging in piracy. They themselves may not be indulging in piracy and they may just be buying those cassettes from someone. But the fact is that the cassettes in their possession are pirated cassettes. How do you or how does the Government propose to deal with them? For the future you have to be alert. My friend, Shri Sukomal Sen, was referring to the law enforcement machinery, how lax it is and said that because of the laxness of the law enforcement machinery this Bill would not have much effect. Hardly anyone can dispute this. I have been in the Government for some time and was dealing with films I know how difficult it is even to ensure that 'A' films are seen only by adults, particularly in the country side. Now, with the advent of the video, what is the difference between 'A' and 'U'? The difference has become meaningless.

What causes great concern to me is not merely the video boom as it has affected the film industry—and it has affected it seriously—but the video boom which is being converted into a porno boom. This is something about which the law cannot go very far. It is only social organisations and the leaders of the society, leaders in the various fields, leaders in the field of education particularly, who have to ensure that the video technology is used for

healthy purposes and, not, as is happening, to pollute the cultural and moral ethos of society.

Sir, as I said, the film industry has been seriously affected. Film industry is one of our biggest industries. I was going through certain figures relating to films. I noticed that the Minister of Excise in Maharashtra had said at some place that in 1981-82, collections from the entertainment tax in the State amounted to Rs. 54.44 crores. In 1982-83, the collections went up to Rs. 63 crores, which meant an increase of 18 per cent. I am sure that in the earlier years, the increase every year must have been approximately the same 18 per cent. But, in the year 1983-84, the increase suddenly slumped from 18 per cent to 8 per cent. In 1984-85, I fear, it is going to come down still further from 8 per cent to perhaps 6 per cent or 4 per cent. So, this is the manner in which the film industry is being affected. I do not want to quote what the spokesman of the film industry have been saying in this regard. But what I want to emphasise is that this law alone is not going to help the film industry also. The film industry itself also has to respond to the challenges of the video technology and to ensure some measure of financial self-discipline within the industry itself. You cannot afford to have this kind of a star system that you have and yet hope to compete with the video boom; you cannot. These are matters with which the film industry should concern itself. The Government has done something. It is a small measure. But, as I said at the very outset, I welcome it. The Minister of Education should be more concerned with the consequences of the video boom insofar as our culture is concerned and insofar as education is concerned. This field is far more important. And in that field, I hope, the Minister would make necessary considerations. If necessary, a sub-committee may be appointed to examine

overall the consequences of the spread of video. Two years back when we decided to go in for TV on a large scale, on a massive scale, we decided to liberalise imports of television and liberalise imports of VCRs, it was at that point of time that these consequences should have been taken note of. It is my conviction that at that point of time there was an abrupt 'U' turn in TV policy. Till 1982, irrespective of which Government was in office, the approach was that TV would not be a high priority. I was the Minister in charge of TV. But I am aware that the Planning Commission had a definite approach in this regard. Even in the field of communication, as you know, sound broadcasting had a priority over television. But in 1982 there was an abrupt about-turn, a change. I am not objecting to that here. But the consequences of this should have been taken note of. The consequences have not been taken note of, because the objective of that abrupt about-turn was not to strengthen TV as an instrument of education, to strengthen TV as an instrument of information, to strengthen TV as a cultural medium, but essentially to strengthen TV as an instrument of propaganda, which I oppose. But this is not the subject matter of this particular debate. So, I confine myself to saying that because of our failure to take cognizance of the consequences of about-turn in 1982 on the eve of the Asian Games, we omitted to take even these small steps. It should have been done earlier. If it had been done in 1982 I would have been very happy. Even now, at this far end of the session I welcome it.

SHRI P. N. SUKUL (Uttar Pradesh): Mr. Vice-Chairman, Sir, I rise to welcome and support this simple piece of legislation on a very complicated subject of copyright. At the very outset, I thank the Minister that within a year she has been able to fulfil her promise to come with a comprehensive amendment in the

[Shri P. N. Sukul]

Copyright Act. She assured Parliament in August last, and this August she is there with an amendment, and that is under consideration.

I entirely agree with my learned friend, Mr. Advani, that it should have come, or it could have come in 1982. And I am also of the opinion that it could have come even in 1979 or 1980. If Mr. Advani remembers correctly, it was in 1978 that a seminar was held in Delhi. Fifteen countries participated in it, and it was inaugurated by the then Education Minister, Mr. P. C. Chunder. And that seminar suggested comprehensive amendments in the copyright law to ensure proper justice to the authors, artistes and to the Government. But it is unfortunate that even at that time it could not come in 1978 or 1979. In 1983 the Minister came up with another amendment. And now, of course, this amendment has come which seeks to deal with the piracy of books and works of art.

There is no doubt about it, Sir, that today we are caught up in a boom of unauthorised production of books or musical tapes or video cassettes. And as Mr. Advani said, Sir, I agree with him, it is very difficult now to deal with what has already been imported in the country. It is very difficult. Just as we cannot deal with the luxury goods that are being sold out in the market of Connaught Place and elsewhere in the country—so many things from other countries are being openly sold; although they should not have come but they are there in the market available, perfumes, etc.—like-wise we are not in a position to deal with the books and cassettes, etc. already smuggled into the country so far. But at least an amendment is being brought forward to deal with the criminals in future. It is this spirit of the Bill that has to be admired and appreciated. This piracy is being commit-

ted. That is the most important question. It is being committed because the books and the works of art, etc. especially books, if published in foreign countries, are very expensive. Cheaper editions have to be made available to the people. People will go in for cheap editions. Secondly, the most important reason is that the developed countries are rather unwilling to permit reproductions of their books and works of art on easy terms at cheaper rates. That is why the Seminar held in 1978 appealed to the developed nations to come to the rescue of developing countries in this respect and to allow reproductions of their books at cheaper rates. Sir, there cannot be two opinions about the fact that Copyright is the exclusive right of an author or an artist. I remember that there was a time when there was no Copyright and even master poets like Milton could earn just £15 for the three editions of Paradise Lost. On such a work as Paradise Lost, he got £15. Milton himself wrote about it and also gave the definition of good book. He says:

"Good book is the life blood of a master spirit embalmed and treasured up on purpose for life beyond life."

So, no society can afford to waste the labour that has been put in the creation of a work of art by an artist or in writing a book by an author and they have a legitimate right to have good compensation for the labour put in that work of creation. Therefore, it is very important for us to check this piracy in books, films and video cassettes. Of course, the very future of our film industry is at stake. Unauthorised reproductions are made and sold out here and there. They go to Pakistan and other countries. From there, they come here. Our film industry and all the people who are involved in making a film, don't get their due compensation. That is why, so many times, our people belonging to the

film industry, our writers and poets have met our Government officers and our Minister of Information and Broadcasting from time to time to impress upon them the need for payment of due compensation to them also.

As regards films, personally I do not know when a film is reproduced or is allowed to be reproduced and exhibited and who gets the compensation or royalty, whether the producer gets the royalty or the distributor gets the royalty. Certainly, it is not the writer of a song who gets the royalty. He is paid once for all. My suggestion is that our film writers, song writers, story writers and dialogue writers must also somehow be paid royalty. They must also get justice in this regard. This cannot be provided in this law. But at some other time, somehow and somewhere, this has to be ensured.

Sir, there is a very interesting case. After the last amendment in the Copyright Act, the publishers and booksellers Guild of Calcutta complained of one thing about our Copyright law. They said that they very much resented the provision that enabled an author to change the publisher despite a contract over a particular book. Now, if the law gives a free hand to the writer to change his publisher every now and then although there has been a contract signed between the two, this aspect of the matter also deserves some probe and we must consider it because the publisher after all takes up that job taking into account the profits that he will be getting in a certain period of time, and that time is stipulated in the contract. Therefore, whether an author should be at liberty to change the publisher every now and then is good or not, must also be looked into and this aspect should also be studied properly.

As I said, Sir, it is because of the high cost involved in foreign publications and foreign things that

cheaper editions are pirated into our country, I will suggest that our Government should somehow try to ensure that cheaper reproductions of this type of best-sellers are made available to our people legitimately so that illegitimate piracy has not to be resorted to. There has to be some arrangement. Our people are poor and not that rich and if they want to have, for example, paper backs, they can have these. Somehow the Government can themselves try to ensure that cheaper editions of best-sellers printed in foreign countries and good books and other pieces of art are made available to our people for our inner consumption. (*Time Bell rings*). In this connection, Sir, it is really very good that so many measures have been contemplated to contain the piracy. The monetary fine is proposed to be increased from Rs. 50,000 to rupees two lakhs. And the sentence of imprisonment is proposed to be increased from a minimum period of six months to a maximum period of three years. Also for subsequent offences much more punishment is being provided. Moreover, the offences are being made cognizable and non-bailable. These are all very good measures. However, I would like to know from the Minister as to what measures have actually been taken by the Government so far to check piracy of books and of video cassettes. The Government must have taken certain other measures to check the piracy of books and video cassettes. So, I would like to know what measures the Government have taken in this regard.

Sir, with these few words, I support the Bill.

श्री हुस्मदेव नारायण यादव (बिहार) :

उपसभाध्यक्ष महोदय, इस विधेयक पर अभी सदन में चर्चा हो रही है। सभी माननीय सदस्यों ने इस विधेयक का समर्थन किया और उसके कई पक्षों को सामने रखा। आप कानून बना लेंगे

[श्री हुस्मदेव नारायण यादव]

कि इस चीज को रोक़ो । तो आपने अंग्रेजी में "पाइरेसी" या किसी शब्द का इस्तेमाल किया है । चोरी के बदले, शेफ्ट के बदले में, कड़े शब्द का इस्तेमाल किया है । लेकिन मैं कहता हूँ कि आज समाज के अंदर जो कलम चोर हैं, शब्द चोर हैं, दृश्य चोर हैं, सौन्दर्य चोर हैं, तो इतने प्रकार की जो चोरी हो रहा है इस चोरी से बचने के लिए आप कानून बना रहे हैं कि कलम चोर को कैसे पकड़ें, दृश्य चोर को कैसे पकड़ें, शब्द चोर को कैसे पकड़ें, सौन्दर्य चोर को कैसे पकड़ें... (व्यवधान) सौन्दर्य चोर नहीं हैं ? अरे, किता मुन्दर चीज की तस्वीर लाकर बिना उसकी अनुमति के छापकर बेचना, यह भी तो सौन्दर्य की चोरी है ना । दुनिया की किसी बड़ी महिला की नंगी तस्वीर के बारे में करोड़ों रुपये के डाक चलाना या कि वह तस्वीर किसी के हाथ लगे तो वह अपनी पत्रिका में छापे, यह भी मैंने सुना था । तो यह सब है सौन्दर्य की चोरी—चोरी छिपे किसी की तस्वीर खींच लो और फिर उस तस्वीर को छाप कर के उससे अर्थोपार्जन करो ।

कहने का मतलब मेरा यह है कि सबको जड़ में अर्थोपार्जन, सम्पत्ति का मोह, सम्पत्ति का संग्रह है । आप इस विधेयक को उससे ने षोड़ें, लेकिन मूल क्या है ? मूल है पूँजीवादी सामाजिक व्यवस्था में कि सम्पत्ति के संग्रह पर छूट है, अर्थोपार्जन जैसे चाहो, वैसे करो । जिसके पास में सम्पत्ति है, वही दुनिया का मान्य पुरुष है और जिसके पास में सम्पत्ति नहीं है, दुनिया में उसे पूछने वाला कोई नहीं है । कोई बहुत पाप से, अवैधानिक तरीक़ से बहुत सम्पत्ति का अर्जन कर लिया हो, बहुत ऊँची अट्टालिका

हो रहने के लिए, उसके पास में अच्छा मकान हो, टहलने के लिए हवागाड़ी हो, सोने के लिए अट्टारी हो, पहनने के लिए बीवी को सुंदर साड़ी हो, तो फिर उस आदमी की समाज में कितनी प्रतिष्ठा, और इज्जत है, हम और आप उसके यहां जाने में रुकते नहीं । माफ़ करिए, नहीं रुकते हम और आप उसके यहां जाने में, नहीं रुकते जब उसका इन्विटेशन कार्ड आता है, तो जीभ से लप-लप पानी चूने लगता है कि इतने बड़े आदमी का इन्विटेशन कार्ड आया है, न जाने कैसा डिनर, लंच और ब्रंच और ब्रेकफास्ट देगा, इसका कोई ठिकाना नहीं है... (समय की घंटी)—तो समाज के अंदर जो यह मोह...

मैं यह कह रहा था कि इस चोरी को ही समाज का सब से ताकतवर आदमी चलाता है, कोई कमजोर नहीं चलाता है ? हमारे हरियाणा, पंजाब, बिहार, उत्तर प्रदेश में कोई किसान का बेटा वीडियो-शीडियो किताब कलम की चोरी करता है ? चोरी करने वाला दिल्ली, पटना, लखनऊ, इलाहाबाद, कलकत्ता, मद्रास में बैठा हुआ है और चोरी कराने वाला कौन ? (समय की घंटी) तो चोरी कराने वालों को संरक्षण देने वाले भी सत्ता में आसीन हैं ।

मैं एक छोटा सा उदाहरण आपको देना चाहूंगा—न जाने किसके बारे में कहा गया है, कौन श्रीमान हैं, मैं नहीं कह सकता, "टाइम्स आफ इंडिया" में लिखा था—

"Mr. Jain of the Indian Motion Pictures Association very angrily stressed that Chief Ministers' sons run video library flagrantly violating High Court judgement. Obviously little action against them will be taken."

[उपसमाध्यक्ष (श्री सन्तोष कुमार साह)]
पीठासीन हुए ।]

अब कौन मुख्य मंत्री जा है, भगवान जाने, इनका पता लगाना तो मेरे लिए असंभव है, लेकिन किसी मुख्य मंत्री का बेटा और किसी एम०एल०ए०, एम०पी० का बेटा—मान लीजिए मंत्री और प्रधान मंत्री जी कहता, तो मारपीट कर दी जाएगी—तो झट से कहते हैं कि उसको छोड़ दिया जाए। कोई मुख्य मंत्री, एम०एल०ए० या एम०पी० का बेटा, या उसका कोई रिश्तेदार ही अगर बीडियो की चोरी करवा रहा है, कैसेट बनवा रहा है, उसको कौन पकड़ेगा ?

जब चीकीदार ही चोर बन जाएगा और उसमें हिस्सा बंटवारा करेगा, तो पकड़ेंगे कौन ? किसको पकड़ेंगे ।

इस बिल से क्या होगा ? ऐसे-ऐसे बहुत बिल इस देश में लाए गये (समय की घंटी) और बहुत से बिल सरकारी कारखाने में, लाइब्रेरी में पड़े हुए सड़ रहे हैं । मैं कहना चाहता हूं कि इसमें बड़े लोग लगे हुए हैं । जब किसी संस्था के अध्यक्ष का कहना है और उन्होंने सीधे कहा, तो मैं भारत सरकार से मांग करता हूं कि भारत की सरकार में अगर दम है और इस कानून को बना कर के आप चाहते हैं कि इन दूध चोर, शब्द चोर, सौन्दर्य चोर, को रोकेंगे, तो सब से पहले जिस मुख्य मंत्री के बेटे के बारे में इस अखबार में छपा है, उस मुख्य मंत्री के बेटे को पकड़ कर के, चालान करके दिखाओ, तो समझेंगे कि आपका कुछ करने का इरादा है और अगर उसको नहीं पकड़ सकते हो, तो यह धोखे की टट्टी है और आप सड़क पर बैठे हुए किसी गरीब को, किसी छोटे आदमी को पकड़ करके इस कानून में चालान तो जरूर कर दोगे, लेकिन कोई बड़ा चोर हिन्दुस्तान का पकड़ा नहीं जाएगा । यह कानून बना है, वह तो ठीक है, लेकिन इसके अमल करने वाले लोगों की जब तक नीयत

और इरादा ठीक नहीं होगा, तब तक इस कानून से कुछ मिलने वाला नहीं है ।

SHRI SANKAR PRASAD MITRA (West Bengal): Mr. Vice-Chairman, Sir, the hon. Minister has said in the Statement of Objects and Reasons that piracy has become a global problem. I agree with the statement and I also agree with the other hon. Members who have spoken about piracy. We know that there is piracy by sexual perverts, unscrupulous traders and various other dishonest persons. But there is one other aspect of this matter also. I intend to quote a passage from one of the foremost authorities on Copyright, namely R. F. Whale, who in his book on "Copyright" at page 14 has referred to the Berne Copyright Union in 1886 and the development of the law thereafter. Then he goes on to discuss the changes that have come about in the 20th century and in referring to the changes this is what he says (I quote from page 14 and 15):

"The demand for authors' works, both for instruction and, stimulated by the new techniques of cinematography, mechanical recording and broadcasting, above all for entertainment, increases enormously. To meet this demand becomes the business of vast commercial enterprises, and finally of the state itself. 'The public interest' is increasingly invoked in favour of limitations on copyright.

The paradox of this situation is well illustrated by Article 27 of the Universal Declaration of Human Rights adopted by the United Nations, which is as follows:

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and

[Shri Sankar Prasad Mitra]

material interests resulting from any scientific, literary or artistic production of which he is the author."

The writer goes on to say:

"Consciously or unconsciously, over much of the world it is increasingly the practice to use the sanction of the principle expressed in (1) of this article to repudiate the principle of (2)."

And in order to strike a balance, in the theory of the author's right, at page 27 R. F. Whale has said, (I quote):

"It is indeed submitted that no legal system which fails to recognise the moral imperative deriving from the creative act will adequately defend the author's interests. That imperative will command respect for the creative relationship between the author and his work and, while not excluding the principle of 'fair use', will be reluctant to encroach on the author's enjoyment of his work's economic potentialities.

This imperative is strongly reinforced by the fact that authors are required to accept the statutory limitation on the period during which they and their heirs may exercise their rights, and that the public has the enjoyment of the vast public domain constituted by author's works which have fallen out of copyright at the end of this period."

This is a wholesome principle of law which should be applicable to all countries which have accepted the Declaration of Human Rights. The aim of copyright is to encourage originality. The aim of copyright is also to ensure that the taxes to be imposed on the sale of the subject matter of copyright are protected. When amendment to the Copyright Act was proposed last year by our hon. Minister,

we welcomed the amendments. But we drew the attention of the hon. Minister to the piracy that was going on on account of the discoveries made in the field of video technology. This was a method used by unscrupulous traders not only to deprive a person of his copyright, a valuable right which he has acquired by reason of his genius, but also to deprive the tax authorities of their legitimate dues. Now video parlours, private clubs and other secluded places in hotels and restaurants have become prolific for these purposes. Now this film of Richard Attenborough on Mahatma Gandhi was shown in the city of Calcutta through video films long before the film was actually exhibited in various cinema houses, whether on payment of money or not on payment of money, I do not know, by various private clubs. This is merely an illustration. That is why we are happy that in this Bill video piracy has been sought to be brought within the ambit of the Copyright Act. The punishments have been enhanced and it has been declared to be an economic offence to take it out of the period of limitation of the Criminal Procedure Code. But I agree with the other hon. speakers who have referred to the machinery of enforcement. Unless the machinery of enforcement is strengthened, the very object of this Act is bound to be frustrated.

Another point, I believe, has been raised by you, Sir, and also by another hon. Member—as to the protection of innocent persons who may be using video films for their own private entertainment. So far as I can see, that is not one of the things affected by this Act. I speak subject to correction by the hon. Minister. If you look at clauses 3, 4, 52A etc. you find that if something is imported for private or domestic use, that would not come within the ambit of this particular Bill and unless a video film is actually published, if you use it for your own entertainment privately, I believe you are not within the ambit of the Act. Now the

whole point is what machinery is going to be set up for enforcement of this law. That is the main thing on which the hon. Minister would be pleased to throw some light.

With these words, I support the Bill.

श्री धर्मचन्द्र प्रशान्त (जम्मू और काश्मीर): उपसभाध्यक्ष महोदय, मैं इस विधेयक का स्वागत करता हूँ और समर्थन भी करता हूँ क्योंकि यह एक अच्छी बात के लिये इस सदन में रखा गया है। पिछले दो वर्ष से फिल्म निर्माता फिल्मी मेगजीन्स में चिल्ला रहे थे कि वीडियो पायरेसी से उनके व्यापार का बहुत धक्का और घाटा लगा है। अभी कुछ समय हुआ हमने गिनेमेट ग्राफ एकट पास किया था। उसमें भी इसके लिये सजा रखी थी और इसमें भी है। यह समस्या सारे संसार की है, लेकिन अमरीका, ब्रिटेन और इटली जैसे देशों के लिये नहीं है, क्योंकि वहाँ जब फिल्म तैयार की जाती है तो उसके साथ कैसेट भी बन जाते हैं और उन कैसेट्स की खपत इतनी बड़ी है कि उससे फिल्म का सारा घाटा पूरा हो जाता है। वहाँ समस्या नहीं है; समस्या इस देश में है। यहाँ सब कुछ चोरी से और परदे के पीछे होता है। अभी थोड़े दिन हुये मैं पुच्छ जैसी जगह गया, वह बहुत दूर इलाका है। हमने वहाँ देखा कि घर-घर वीडियो है और कैसेट है, मैंने पूछा यह सब कहाँ से आ रहा है। मुझे बताया गया कि नजदीक पाकिस्तान बार्डर से ले आते हैं। वहाँ बड़े-बड़े शहरों से भी ज्यादा तादाद में वीडियो पायरेसी चल रही है। इसी तरह से बड़े-बड़े शहरों में ब्लू फिल्म आ रही है नौजवानों के आचार को भ्रष्ट करने के लिये।

बाकी जो दूसरी बुक पायरेसी है उसके मुतालिक विधेयक में बहुत कहा गया है। बुक पायरेसी का, जिसको मैं कहूँगा साहित्यिक चोरी या साहित्यिक डकैती, इतिहास बहुत पुराना है। कहा जाता है कि शेक्सपीयर ने जो नाटक लिखे वह बैंकन ने लिखे।

इसका लोग मानते नहीं हैं। अपने देश के दासशास्त्रियों का मैं त्रिक कहूँगा। महाकवि कालिदास ने अपने महाकाव्य रघुवंश में लिखा है कि जब महा राजा दशरथ के पिता अजय यात्रा का जाते हैं तो वहाँ एन शहर में उनके सौन्दर्य का देवने के लिये महिशाएं आने माना के झरखो से देखती है। यही चीज अश्वघोष ने बुद्धचरित में जब बुद्ध श्रीवस्ती में जाते हैं, बिल्कुल वही शब्द दिये हैं। अब यह कहा जाय कि कालिदास ने यह चोरी की अश्वघोष के बुद्धचरित से या अश्वघोष ने बुद्धचरित में कालिदास से चोरी की। यह बहुत पुरानी बात है। 70-80 वर्ष पहले दासशास्त्र नाटककार हुये हैं—तारायण प्रसाद बेताब और आगाहश्र काश्मीरी। ये दोनों नाटककार चिल्लाते रहे कि हमारे लिखे हुये नाटक दूसरी कम्पनियां खेल जाती हैं। वही नाटक औरों के नाम पर छपे हैं और उन्हीं के नाम पर खेले जाते हैं, लेकिन तब इसका प्रबन्ध नहीं था। ब्रिटिश सरकार ने कापीराइट एकट तैयार किया। जब किताब छपती है तो उस पर सर्वाधिकार सुरक्षित, कापीराइट रिजर्व लिखा रहता है, लेकिन साहित्यिक चोरी होती रहती है और जो कानून है उसका बायलेशन होता रहता है। और उसकी वजह यह है कि इस कानून में कुछ लूपहोल हैं जिसके कारण यह सब कुछ हो जाता है। मैं समझता हूँ कि यह कानून जो है यह इन बातों का प्रबन्ध करेगा ताकि लोगों को आगे चोरी करने का हौसला न हो।

मैं शिक्षा मंत्री जी से एक चीज का निवेदन कहूँगा। विद्यार्थियों के लिये जो टेक्स्ट बुक्स छपती हैं उस में प्रकाशक क्या करते हैं, उन पुस्तकों को लेकर उनके नोट तैयार कर लेते हैं। अगर पुस्तक की कीमत 15 रुपए है तो वह नोट 5 रुपए में बेचे जाते हैं और विद्यार्थी भी सोचता है कि 5 रुपए में लेकर 10 रुपए बचा लेंगे, लेकिन उनको पढ़ाई में बहुत नुकसान पहुंचता है। इसलिये इस बात का शिक्षा मंत्री खाम ध्यान रखें। इनको

[श्री घर्मचन्द्र प्रज्ञान्त]

श्री इस ला के अन्दर रखा जाय--जो टेक्स्ट बुक नाट की दक्ल म छपती हैं और विद्या-धियों को नुकसान पहुँचाती हैं ।

SHRIMATI SHEILA KAUL: Sir, I am grateful to the hon. Members who have participated in this Copyright (Amendment) Bill and have offered their useful suggestions. Shri Sen welcomed the Bill. I am very happy that all the hon. Members present here, by and large, have welcomed it, though with certain reservations. Shri Sen said that to say that it was a global problem would not be the right thing because in China there is no piracy. But I would like to remind him that even Communist countries are participating in the world forums on Copyright Law. We are aware of the fake piracies and the Copyright Bill takes care of it. The Bill also takes care of film piracy as video films have been specifically included in the definition under section 2. We have also taken care of computer software by including it in the definition of 'literary work'.

Shri Ramakrishnan had said that there are obscene and bad films that are exhibited, that what really matters is the enforcement and that care should be taken about that. We are aware of the dimensions of the problem and this Bill takes care of three kinds of piracy, including sound, fiction and the private printed word. The evil of the dirty films will be checked only when authorised and certified films will be shown under this Bill. And we are conscious of the need of proper enforcement and will take care of the requisite action in consultation with the departments concerned.

Shri Mohunta and Shri Advani also welcomed the Bill, but said that it was overdue and delayed. Shri Advani also mentioned that it could have come two years earlier. But Shri Sukul explained to us why the delay has been there. It could have been even

earlier than 1982. But this antipiracy bill was to be examined at various levels. As has been said by me, we have brought this legislation after detailed consideration within less than a year. Last year, this month, I had brought it and within 12 months I am standing before you on this Copyright Bill again. There have been more competent Ministers perhaps who had taken the position to come out with the legislation, but they just could not manage it because it was an important Bill that had to receive due consideration from all quarters. And we have not copied other countries. We have only fallen in line with the latest thinking and gone in this regard by the international level. We were party to the worldwide forum on prevention of piracy.

As regards the role of the exhibitor, the Bill covers only the copyright aspect of the literary work and exhibition of a pirated uncertified film will be covered under the Cinematograph Act, of the State, concerned. A genuinely innocent person will not be penalised as this will cover a person who knowingly violates the provisions of the law and does it for financial gains.

As regards the level of the police officer, crimes of this level are generally investigated by Sub-Inspectors.

About the issue of books, that has been covered when the amendment Bill was brought and passed last year.

Regarding Shri Sahu's suggestion, the proposed amendment permits import of books and other items but excludes unauthorised cassettes of music of films because if one such copy is brought in, it can be multiplied in no time. Authorised copies of video-visual works can be brought in. The provision is not applicable to authorised works. Any number of such works can be brought in.

Shri Bhardwaj gave us history of this Bill, and this Bill has actually been brought before the House as a

result of the assurance that was given last year that as soon as the examination of the different aspects were completed the Bill would be brought in. The Bill is before the House now.

Regarding the point made by the hon. Member in regard to authors, I would like to invite the attention of the hon. Member to new section 19A in the Copyright Act which provides special safeguards for author's rights.

I have mentioned and replied to Shri Advani's point here that we have not delayed. The whole thing, the video and other technological piracies are recent phenomena. Two world-wide forums were held in 1981 and 1983, and we very promptly brought the Bill after detailed consideration.

As regards the pirated works in existence, this will be taken care of under section 52-A read with section 65-A of the Bill, and it will be obligatory to display on the cassettes and videos the requisite data relating to the owner of copyright, certification for exhibition, the name and address of the firm making the copy.

Shri Sukul was also kind enough to welcome the Bill. Song writers, story writers and authors under the Copyright Act receive payment of their work in accordance with the agreements they have with film producers. This Bill provides for punishment of imprisonment for fine or both. Because the technology had not advanced so much, these measures were adequate. But the adequate advancement of technology made it necessary to make punishment more stringent.

Justice Mitra very kindly supported the Bill. He welcomed the proposed amendment and made a plea for strengthening the machinery for implementation. As mentioned previously, this suggestion has been made, and the question will be taken up with the concerned enforcement authorities.

या हुकमदेव नारायण मादव शायद यहाँ नहीं हैं। उन्होंने बहुत कुछ अच्छे सुझाव दिये थे। यह बात भी सही है कि जो खूबसूरत चीजें होती हैं उनको चुरा लिया जाता है। उन चीजों को पैसा मिलना चाहिए, वगैरह पैसे के यह सब हो जाता है। यहाँ यहाँ नहीं है लेकिन उनके सुझाव अच्छे और सुन्दर हैं।

I am glad that the Copyright Amendment Bill, 1984 evoked a kind of support, response and perception that it richly deserved. As I had suggested right in the beginning, this anti-piracy law will be the first momentous step that will curb thefts of intellectual property.

In that sense today we vindicate the inalienable right of the creative persons to ensure the protection of their works. Today we stand on the threshold of an era of increasing security of creative works.

I am also conscious of the fact that having been armed with this Law, we will need to enforce it equally strictly and earnestly. We have taken care that even future developments in technology would be covered by this law. Shri Bhardwaj has expressed his concern about this and the different amendments coming in a piecemeal. As I said, the future developments in technology would be covered by this law.

Let us all today feel happy that we have stood by the writers, artists, the film makers, the song writers and all those creative persons who have and are enriching our great composite culture. I thank you very much.

THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU): The question is:

"That the Bill further to amend the Copyright Act, 1957, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU): We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 10 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHR. MATI SHEILA KAUL: Sir, I move:

"That the Bill be passed."

The question was put and the motion was adopted.

THE ADMINISTRATIVE TRIBUNALS Bill, 1984

THE VICE-CHAIRMAN (SHRI SANTOSH KUMAR SAHU): Mr. P. Venkatasubbaiah.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI P. VENKATASUBBAIAH): Sir, I beg to move:

"That the Bill to provide for the adjudication on trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government and for matters connected therewith or incidental thereto, be taken into consideration."

Mr. Vice-Chairman, Sir, this is a very important Bill and I hope that hon. Members of this House will support this Bill unanimously.

Sir, I had introduced the Administrative Tribunals Bill in this House on 21st August, 1984.

Sir, as the House is well aware, Article 323 A of the Constitution of India stipulates that Parliament may

by law set up Administrative Tribunal to provide for adjudication or trial of disputes and complaints with respect to recruitment and conditions of service of persons appointed in connection with the affairs of the Union or of any State as also those employed in connection with the affairs of any local or other authority or of any corporation under the control of the Government of India or the Government of a State. The Bill as now introduced by Government seeks to give practical shape to the provisions of this article by proposing to establish a separate Tribunal called the Central Administrative Tribunal for dealing with disputes relating to service matters of the members of the All India Services and other Central Government employees and State Administrative Tribunals for the employees of various State Governments. In keeping with the constitutional provisions, the Bill also provides for the establishment of Joint Administrative Tribunals for two or more States if they so desire. The State Administrative Tribunals or Joint Administrative Tribunals for two or more States would be established by the Central Government on a request received in this regard from any of the State Government or Governments, as the case may be.

Each Tribunal will have a Principal Bench, presided over by the Chairman and consisting of two other Members. Depending on work load and the regional requirements, additional Benches presided over by Vice-Chairman and consisting of two other Members may be constituted according to requirements.

A serving or retired judge of the Supreme Court or High Court or those who have held the post of Secretary to the Government of India or a post under the Central or a State Government carrying a scale of pay not less than that of Secretary to the Government of India for at least two years are eligible to be appointed as Chairman or Vice-Chairman of a Tribunal.

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The passengers, crew and the aircraft are safely back in India. The hijackers are still in Dubai in the custody of the authorities there. I do not wish to say more at this stage. I am confident that the House will appreciate this, as further action is the subject matter of very delicate negotiations.

19.00 hrs.

COPYRIGHT (AMENDMENT) BILL

SHRI SATISH AGARWAL (Jaipur) : Sir, we can pass the Copyright (Amendment) Bill without any debate. We cooperate with them though they accuse us of not cooperating with them.

THE MINISTER OF STATE OF THE MINISTRIES OF EDUCATION AND CULTURE AND SOCIAL WELFARE (SHRIMATI SHEILA KAUL) : I beg to move :

"That the Bill further to amend the Copyright Act, 1957, as passed by Rajya Sabha, be taken into consideration."

MR. SPEAKER : The question is :

"That the Bill further to amend the Copyright Act, 1957, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted

MR. SPEAKER : Now, we take up clause by clause consideration.

The question is :

"That Clauses 2 to 10 stand part of the Bill"

The motion was adopted.

Clauses 2 to 10 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRIMATI SHEILA KAUL : I beg to move :

"That the Bill be passed".

श्री अदल बिहारी बाजपेयी (नई दिल्ली) : अध्यक्ष महोदय, मंत्री महोदया यह बता दें कि यह बिल लाने में इतनी देर क्यों हुई। यह बिल दो साल पहले पास हो जाना चाहिए था। इस बिलम्ब के कारण फिल्म उद्योग का इतना नुकसान हुआ है, जिसका वर्णन नहीं किया जा सकता।

सूचना और प्रसारण मंत्रालय के राज्य मंत्री तथा संसदीय कार्य विभाग में राज्य मंत्री (श्री एच० के० एल० भगत) : यह बहुत अच्छा बिल है। आप इसको सपोर्ट करें। हम इस बिल को ले तो आए हैं, आप तो लाए हो नहीं।

MR. SPEAKER : The question is :

"That the Bill be passed"

The Motion was adopted.

19.03 hrs

Statutory Resolution Re : Approval of

CONTINUANANCE OF PROCIAMATION IN RESPECT OF SIKKIM

MR. SPEAKER : Now, we take up Proclamation on Sikkim.

SHRI G.M. BANATWALLA (Ponnani) : I rise on a point of order. I submit that this Statutory Resolution with respect to Sikkim cannot be moved. I draw your attention to rule 174 read with Article 356. You will find that this Proclamation about Sikkim is to remain in force upto 24th of November of 25th of November. Today, we are passing a Statutory Resolution to continue the Proclamation w.e.f. 25th November i.e. three more months have still to pass. How can this House be

[Sh. Sharad Pawar]

However, I feel that such interviews by serving officers are best avoided. I wish he had resisted the temptation.

I would like to recall that our Armed Forces are highly disciplined and have discharged every task assigned to them, since the attainment of Independence, with utmost devotion and loyalty. I would like to take this opportunity of assuring this House that the Armed Forces function entirely under the control of my Ministry.

It has been our tradition to insulate the Armed Forces from controversy. I, therefore, appeal to this august House not to press any further debate on this issue.

16.33 hrs.

(ii) Price policy for Rabi Crops of 1991-92 to be marketed in 1992-93 season.

THE MINISTER OF AGRICULTURE (SHRI BALRAM JAKHAR): Sir, the Government have fixed the Minimum Support Price of Wheat of fair average quality at Rs. 250 per quintal for 1991-92 crop to be marketed in 1992-93 season. This marks an increase of Rs. 25 per quintal over the price of Rs. 225 per quintal fixed for 1990-91 crop.

The Minimum Support Price of Barley of fair average quality has been fixed at Rs. 210 per quintal marking an increase of Rs. 10 per quintal over the price fixed for the 1990-91 crop.

The Minimum Support Price of Gram of fair average quality has been fixed at Rs. 500 per quintal marking an increase of Rs. 50 per quintal over the previous year.

The Minimum Support Price of Rapeseed/Mustard has been fixed at Rs. 6.70 per

quintal marking an increase of Rs. 70 per quintal over the previous year.

The Minimum Support Price of Saf-flower of fair average quality has been fixed at Rs. 640 per quintal marking an increase of Rs. 65 per quintal over the previous year.

The Minimum Support Price of Toria of fair average quality for the marketing year 1992-93 will be fixed by the Department of Agriculture and Cooperation in the light of normal market price differential with respect to rapeseed/mustard.

I am confident that the minimum support prices now fixed for different crops for the current marketing season will enthuse farmers to achieve further increases in production and productivity of these crops.

16.34 hrs.

STATUTORY RE. SOLUTION RE DISAPPROVAL OF THE COPYRIGHT (AMENDMENT) ORDINANCE, 1991

AND

COPYRIGHT (AMENDMENT) BILL

[English]

MR. SPEAKER: The House shall now take up items 16 and 17 together. Shri Lokanath Choudhury. He is not here. Shri Girdhari Lal Bhargava.

[Translation]

SHRI GIRDHARI LAL BHARGAVA (Jaipur) : Mr. Speaker, Sir, I beg to move:

"That this House disapproves of the Copyright (Amendment) Ordinance, 1991 (Ordinance No. 9 of 1991) prom-

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SHRI RAM Mr. Speaker Sir, consensus in Bu regarding the h House has decl also B. J. P., C. P is of the opinion 20th should be cause in Bihar hli The Members fr home.

MR. SPEAKER decide about it ti Girdhari Lal Bha something.

SHRI GIRDH Speaker, Sir, the (promulgated rega an old order. Actua the time of reprint c Rabindra Nath Ta amendment was b Minister has broi substitute 40 by 50 saw that there wa: the committee of S tion set up by Shr himself, to bring a them to continue 1 works, he brought : also made a simil ordinary matter. Sir expire in Decembe was promulgated. I promulgate ordinar manner. There are 1 hon. Minister's inten that for such things.

MR. SPEAKER implemented for all.

SHRI GIRDHA

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Sir, I beg to move:

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961 Stat. Res. re. dis- PHALGUNA 27, 1913 (SAKA) Ordinance and 962
approval of copyright (Amend.)
Copyright (Amend.) Bill
ulgated by the president on the 28th
December, 1991".

SHRI RAM VILAS PASWAN (Roser):
Mr. Speaker Sir, I request you that there was
consensus in Business Advisory Committee
regarding the holiday on 20th. The Upper
House has declared it as a holiday. Here
also B. J. P., C. P. I., C. P. I. (M) and my party
is of the opinion that, if the House agrees,
20th should be declared as a holiday, be-
cause in Bihar hli will be celebrated on 18th.
The Members from Bihar will return to their
home.

MR. SPEAKER: Hon. Member, I will
decide about it tomorrow at 10 A. M. Shri
Girdhari Lal Bhargava, would like to say
something.

SHRI GIRDHARI LAL BHARGAVA: Mr.
Speaker, Sir, the Ordinance which has been
promulgated regarding copyright is in a way
an old order. Actually the point was to extend
the time of reprint of the books written by Shri
Rabindra Nath Tagore and that is why an
amendment was brought forward. The hon.
Minister has brought an Amendment to
substitute 40 by 50 and 50 by 60. When he
saw that there was a repeated demand by
the committee of Shanti Niketan, an institu-
tion set up by Shri Rabindra Nath Tagore
himself, to bring an amendment to enable
them to continue to publish Shri Tagore's
works, he brought this amendment. Others
also made a similar demand. It is not an
ordinary matter. Since the time was due to
expire in December, 1991, this ordinance
was promulgated. I think it is not proper to
promulgate ordinances frequently in this
manner. There are no two opinions that the
hon. Minister's intention was clean, but I feel
that for such things....

MR. SPEAKER: It is all right. It will be
implemented for all.

SHRI GIRDHARI LAL BHARGAVA:

Bringing forward ordinances for such rea-
sons is not proper. You have given these
rights to all except those who had got rights
before 1991, I hope the hon. Minister will
explain the position while replying to the
debate.

MR. SPEAKER: Motion moved:

"That this House disapproves of the
Copyright (Amendment) Ordinance,
1991 (Ordinance No. 9 of 1991) prom-
ulgated by the President on the 28th
December, 1991".

[English]

THE MINISTER OF HUMAN RE-
SOURCE DEVELOPMENT (SHRI ARJUN
SINGH): Sir, I beg to move:

"That the Bill further to amend the
Copyright Act, 1957, be taken into
consideration."

If I have understood the hon. Member
correctly, he is not against the substance of
the Bill, but he thinks that perhaps we should
have done it in the normal source and not
brought it up as an Ordinance.

There were opinions that were coming
to us on this account and we had to consult
a large number of people. There were repre-
sentations from the State Governments, from
some hon. Members also and therefore in
that process some delay occurred; and this
had to be done by an Ordinance because the
Copyright Act expired on 31.12.1991.

The extension that we have given for
ten years is actually a means; we have tried
to reduce being too much for it. Some sug-
gestions were made for 17 years, some were
for more years, but we thought that ten years
should be given; and this is eligible for every
one. This is not only for Guru Tagore's works;
of course, Guru's works are a class by

[Sh. Arjun Singh]

themselves. It was considered an appropriate therefore to extend this for another ten years.

MR. SPEAKER: Motion moved:

"That the Bill further to amend the Copyright Act, 1957, be taken into consideration."

SHRI GIRDHARI LAL BHARGAVA

(Jaipur): I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 25th June, 1992." (1)

PROF. RASA SINGH RAWAT

(Ajmer): I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 30th June, 1992." (2)

MR. SPEAKER: Shri Bijoy Krishna Handique.

16.43 hrs.

[MR. DEPUTY SPEAKER *in the Chair*]

SHRI BIJOY KRISHNA HANDIQUE (Jorhat): I rise to support the Copyright (Amendment) Bill. This is a wise decision to extend the term of Copyright generally, in all the works protected by the Copyright Act of 1957. Thought, originally, the intention was to accord extended protection to Gurudev Rabindranath's works in view of their national importance, legally, it is essential to extend the term of Copyright, generally, even to protect Gurudev Rabindranath's works. The decision is significant.

During the next ten years, we shall watch how the Visva Bharati University does

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not only to protect the works of Kavi Guru Rabindranath but how to popularise his works and yet lift them from the intrigue of commercialisation and publish authentic and entire works of Kavi Guru Rabindranath Tagore at a low price.

For complaints against Visva Bharati are in the air. Though it is a well considered decision to allow Visva Bharati to retain the Copyright, complaints from distinguished educationists, writers and intellectuals must be considered too. Their opinions cannot be dismissed summarily.

We have to admit that, as has been claimed by distinguished intellectuals that all is not well with the Visva Bharati and the manner in which it has made use of the copyright in recent times is not inspiring.

Sir, I want to make it clear, Test I may be misunderstood, that when I say that the Government's decision to extend the protection and allow the Visva Bharati to retain the copyright is wise, it is not because of the fact that Kavi Guru desired before his death the copyright be given to Visva Bharati for publication. If the copyright is not protected, his works will be exposed to a sinister commercial design and ultimately only a handful of works which sell fast will be promoted and the remaining volumes of his works will lie untouched. As a result a large number of his works will not be published or re-published. To save Kavi Guru's works from rank commercialism, Visva Bharati is the only answer. For it can rise above commercialism and promote his works from the point of view of research, aesthetic and historical assessment. But that does not mean that Visva Bharati remains indifferent to the criticism of the various organisations and authors.

For those who are inclined to hold the view that Visva Bharati fails to do full justice to the promotion of Kavi Guru's works, are high dignitaries of India's culture and litera-

ture and art. incorrect text: production stage self-safeguard putting it to go which have all of the Visva B

There is organised rear anything to do grudge or is it than merit. Or analysis of Vis was expected in production,

Their spe Bharati has no large volume c prose, many of various periodicals and the poiness and comp questionable. They have been claim Gurudev Rabir came out in 15 years have given grievances among scholars.

Let the Gov the Visva Bharati years to prese complete Tagore. But if the Visva Bharati commitment, in years, it forfeits Government age however, confidence which is the credit of Kavi Gurudev Rabindranath himself, desire that the right Visva Bharati, works and preservation of text and also translation and re-trans

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ture and art. Allegations of incomplete and incorrect texts poor translations, indifferent production standards and an obsession with self-safeguarding the copyright, instead of putting it to good use have been levelled and which have allegedly fallen on the deaf ears of the Visva Bharati authorities.

There is no reason to believe that this organised reaction of these intellectuals has anything to do with individual annoyance or grudge or is inspired by calculations other than merit. On the contrary, it is a rational analysis of Visva Bharati's lapses when it was expected to set standards of excellence in production, editing and marketing.

Their specific allegation is that Visva Bharati has not been also to bring to light a large volume of Kavi Guru Rabindranath's prose, many of his short works published in various periodicals, including important letters and the popular view is that the correctness and completeness of the publication is questionable. That is another complaint. They have been claiming that the last volume of Gurudev Rabindranath's Collected Works came out in 1965 and the intervening 26 years have given enough causes, enough grievances among the readers and research scholars.

Let the Government watch what steps the Visva Bharati takes during the next ten years to present authentic Tagore, and complete Tagore and inexpensive Tagore. But if the Visva Bharati, however, fails in its commitment, in the course of the next ten years, it forfeits the right to come to the Government again to plead its case. I am, however, confident that the Visva Bharati which is the creation of Kavi Guru Rabindranath himself, and it was the creator's desire that the right of publication rests with Visva Bharati, will be able to protect his works and preserve the purity and authenticity of text and also launch a drive for translation and re-translation into the Indian lan-

guages or even to foreign languages. It is a great responsibility and faith placed in the service of the Visva Bharati. The other alternative is to leave Tagore's works to the mercy of unrestrained commercialism of the big publishers whose motivation is guided by the best seller psychosis. They might argue that the best sellership is the readership among millions. But what about those which are not meant for best sellers? The best sellership is no criterion for aesthetic heights and excellence. It will be a sad day if the horizon of Tagore readership is cribbed and circumscribed by the materialistic consideration of profit and loss of the flourishing publishing houses.

Sir, all our talks about the protection of the author however end up in irrelevance when we have a copyright law without enough teeth. The infringement of Copyright Act is everywhere. But the problem is acute in third world because people cannot afford to buy books. Even in developed countries like U. K., U. S. A., this problem is there. One should however, have no illusion that if more reprints are available, it will put an end to the photocopying of books thought it may be slightly controlled.

And piracy is not limited to the context of west versus third world. Even a book published in India is pirated in other third world countries. The tragic irony is that an Indian author's book is pirated in India because of the high price of the book. Thus, the piracy of book is nothing to do with the South or North. If the book is successful in the market, there is no guarantee against its being pirated.

In 1985-86, the Copyright Act was amended not because there was a concern to save the book industry but because of video piracy. I urge the Government to take adequate steps in pursuance of the 1983 amendments, in respect of making foreign books available at a reasonable price through compulsory licensing so as to meet expedi-

[Sh. Bijoy Krishna Handique]

17.00 hrs.

*[Translation]

tiously the country's requirement for scientific and technical books published abroad and reproduction of books required for teaching, research and other systematic instructional activities.

Why I have raised this point is this. We have now amended the Copyright Act to give protection to one of the world's great litterateurs. But if the copyright infringement is rampant and frequent, then how can we protect the great works of this great man?

There was a newsitem published in a newspaper. It was reported in some of the newspapers that one gentlemen went to a book stall in or Railway station. One of the State of our country. I do not want to name that State, which might be a reflection on that State. He found in that bookstall a book, which was a translation of Ravindranath Tagore's *Gora*. Along with that there were a few pages of pornography printed. What can the Government do to protect such works?

So, the penal measures must be strengthened and properly enforced. But merely strengthening of the penal measures is not enough. The Government should do something to see that the books are available within the easy reach of the people.

I wanted to raise this point in the course of this discussion. The main discussion, is however an extension of this copyright to Gurudev Tagore's words. Vishwa Bharati should bring out an authentic Tagore, complete Tagore and inexpensive Tagore, within the easy reach of the people.

With these words, I support this Amendment Bill. I hope the Government will also take measures so that the Copyright Act is protected against infringement.

*SHRIMATI MALINI BHATTACHARYA: (Jadavpur): Hon'ble Deputy Speaker, Sir, in this copy right (Amendment) Bill, 1992, the effective clause is in the 5th Chapter of Copyright Act where the period of copyright has been extended from 50 to 60 years. Other creative works like Art, film etc. are also protected in this. It seeks extension of time limit by 10 years. Why this extension of time limit has been sought. In the three objective stated by the Government, the case of Rabindra Nath has been referred to. After Rabindra Nath's death, the copyright of his works was given to Vishwa Bharati. As per rule, the copyright would have expired in December, 1991. So Tagore's writings would have been available for any publisher to publish.

Ten years have been extended by this new Act. While stating the objective, it has been said that because the period of copyright can not be extended for a particular author, so this extension covers all the writers.

There questions arise in this regard. The first question is, whether there can be a change in the act or not. The second question is whether the common reader eager to read Rabindra Nath or get acquainted with other renowned India Writers, would be benefitted and the third question is why this extension of ten years only. Why not more or less?

I don't want to give more importance to the legal side. Because I feel if there is any lacuna in an act space for amendment should always be there.

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*Translation of the speech originally delivered in Bengali.

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national convention on copyright (1) Berne convention and (2) Unesco convention. Generally the countries under Berne convention, recognise the term of copyright for 50 years. But exceptions are there. Federal Republic of Germany and Austria extended the period of 50 years to 70 years through Parliamentary Act in 1965. In India also that period of 30 years was extended to 50 years. In the second convention i. e. Unesco convention, where India is one of the signatories, the internal legislation has been recognized for the protection of copyright. No rigid international standard has been recognised with regards to protection of copyright by national legislation. So even after being a partner in these two international conventions, if any country feels the need to extend the time limit for any literary work it faces no legal restriction. Originally the govt. sought to amend the copyright act because the copyright of Rabindra Nath was going to expire. So it is necessary to say a word or two on Rabindra Nath. It has been rightly said by my previous Speaker that it cannot be claimed that Viswa Bharati has been completely successful in publishing the writings of Tagore. It cannot be denied that along with success failures are also there. I agree with my previous Speaker in this regard.

In the case of Rabindra Nath, this extension of 10 years means that the Copyright of his writings remains with Viswa Bharati for another 10 years whereas the extension of time limit for other writers means the copyright will be enjoyed by some persons like his relatives or inheritors. According to some people this monopoly of copyright and extension of time limit without freedom to publish would create impediment in making the writings of the great writers of the country easily available to the common reader. So they feel that the writings of Rabindra Nath should be made free from the monopoly of Viswa Bharati and there should not be any extension of time limit. This view has been expressed by many writers, intellectuals, and creative art-

ists. We agree with them to some extent. We also feel that it should be our endeavour to make as much as possible the writings of Rabindra Nath, the complete writings, the authentic writings of Rabindra Nath, easily available for common reader. Of course, this objective is meant for all great writers like Prem Chand or Subra Maniam Bharati. Their creative works are our national wealth. So they should be enjoyed lay all.

Now if we feel that after the expiry of time limit of copyright, literature because free for publication, then the extension means unnecessary delay of this freedom of publication. But is it so in reality? We have no reason to believe that authentic, complete Rabindra Nath would have been easily available for common reader even after the expiry of his copyright on 31st December, 1991. We have a different experience. In the case of other great writers in Bengali like Rabindra Nath or Sukumar Roy, market was flooded with publication of substandard editions with cheap pictures of their books after the expiry of copyright of their writings. And moreover the publishers with only regard for profit will publish only a few popular books of Rabindra Nath. We can not have the complete Rabindra Nath in the publication world.

If we want to give freedom of publication for Rabindra Nath or any great writer or want to make their complete authentic, undistorted writings easily available then we can not leave them in the hands of great business lobby or at the mercy of whimsical ups and downs of the market.

In their recommendation, the Haksar committee expressed the opinion that if national intellectual property is to be utilised for benefit of the people then you can not leave this in the hands of market force. Even the Government owes certain responsibility in this regard.

Now these extra ten years are to be

[Sh. Bijoy Krishna Hanique

utilised for publishing the complete, undis-
torted Rabindra Nath and make his writings
available with reasonable price for common
reader. We feel that this extension of 10
years is not enough in this regard. For overall
development and improvement of Viswa
Bharati Publication the Govt. may consider
forming a supervisory committee compris-
ing of representatives of various Govern-
ment publishers so that we can publish the
complete works of Rabindra Nath within a
definite period of time. This objective should
not be confined to Rabindra Nath only. This
objective should be meant for all great writ-
ers of our country. Without this objective, just
more extension of time limit won't serve any
purpose.

Hon'ble Chairman, Sir, I would say a
few word in the end. According to many
persons, we have been objecting unneces-
sarily against patent act amendments advo-
cated in the Dunkel Draft. They say that you
people have no objection for extension of
time limit of copy right in the country. But why
you are objecting to the extension of time
limit upto 20 years for Patent Act in Dunkel
Draft? Our reply to them is that the same
reason of protecting the act of Rabindra Nath
or any great writer from market-forces is
working here. We do not want the monopoly
of big business group or multi nationals on
our intellectual property. We have objection
for giving facility to the big business lobby or
multinationals through the amendment of
the Patent Act.

Considering the situation in the devel-
opint countries, the Unesco convention made
the International copyright Act to some ex-
tent unrestricted so these countries can util-
ise the intellectual property of other coun-
tries and develop their own intellectual prop-
erty. Stockholm protocol wanted to go one
stop ahead in this regard. But the developed
countries did not agree. Today the multi-

national companirs want to have monopoly
on International intellectual property. Through
Dunkel Draft. The cultural, moral social
sovereignty of a country can not come under
Patent Act. But there multinationals want to
bring these too under Patent Act. It will not be
proper to judge in the same light the move of
met letting a national writer to be subjected
to market forces the objection to the pro-
posal for amendment of Patent Act in Dunkel
Draft.

Hon'ble Chairmen, Sir, I thank you for
giving me time. After supporting the amend-
ments I would like to submit that this exten-
sion of ten years should be utilised in such a
manner so that the writings of Rabindra Nath
and other great writers can be available for
all of us properly.

[English]

PROF. K. V. THOMAS (Ernakulam):
Mr. Deputy Speaker, Sir, at the outset I
support the Copyright (Amendment) Bill. The
Eighth Commandment says:

"Thou should not steal".

The Copyright Bill aims to prevent the
stealing of intellectual properties of men of
eminence. The Copyright Act was first en-
acted in 1709 in England. It was first enacted
in India in 1914 and subsequently there were
a number of amendments and even the
present amendment does not plug many of
the loopholes still present in the Copyright
Law. So, we should have a very comprehen-
sive Copyright Law, so that whatever loop-
holes are present now can be effectively
plugged. As it is specially noted in the State-
ment of Objects and Reasons of this Bill, one
of the primary aims of this amendment is to
protect the copyright of Gurudev Tagoreji's
works for 10 more years. In this connection,
I would like to know why it is 60 years. In
Germany, a Law was enacted in 1975 and
its period is 70 years. In Spain also a Law

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was enacted and the period is 80 years. As you have decided to enhance the period from 50 years to 60 years, I would like to know why it is 60 years and why not a little more. I would like to know the reason behind it.

Sir, I would like to bring to the notice of the hon. Minister certain anomalies still existing in the Bill. In the case of literary, dramatic, musical and artistic works other than photographs, the period of copyright is the life time of the author and 60 years after his death. Why are the authors of photographs not given this privilege? In the present day world, photography is also a piece of art. So, I think, this privilege should be given to the authors of photographs also. Similarly, in the scientific world, computer programmes and softwares also should be adequately protected and in the present law, this protection is not given. The 1977 Supreme Court judgment gave the sole copyright of the films and sound tracks to the producers. The artist of the film who are not organised themselves are completely at the whim and fancy of the producers. My request is, there should be adequate amendment to safeguard the interests of the artist. Pirated books, audio, video cassettes, paintings, computer programmes and films are now available everywhere. This is due to the absence of adequate and effective laws. Infringement of copyright Act is analogous to misappropriation of property or even theft. Therefore, it calls for stringent penal action.

My request to the Government is, we should bring about legislation so that even imprisonment and heavy penalty should be given to those who infringe the law. There should be a special police cell to look into these cases. There should be special courts. The law should have enough teeth.

I would suggest that video parlours and shops may come under licensing agency system so that there can be frequent checks.

Seized pirated property should become the property of the State. In the present law, we do not have such a provision. Similarly, there should be public awareness scheme the Copyright law since the people do not know what are the provision under the present law.

Coming to the evidence, the evidence should be relaxed in favour of the copyright holder and not to the alleged culprit.

The developing nations and the Third world countries, they are put in a very disadvantageous position. Countries like England and France are not prepared to uphold the 1967 Stockholm Protocol as a result of this, many of the modern books which are published abroad in the Western countries come to the developing countries and the Third-world after certain period, when they become obsolete. Now the Third world countries and the developing nations have become a burial ground for obsolete work done in the Western countries. We should see that the Stockholm Protocol signed by the nations is being implemented scrupulously.

With these words, I support this Bill.

[Translation]

SHRI MOHAN SINGH (Deoria): Mr. Deputy Speaker, Sir, there is nothing much to say against this Bill seeking to amend the Copyright Act because it has been introduced with such a perspective and background that there is nothing left to say against it. But, I would like to take this opportunity to make some suggestions to the hon. Minister.

It has been the misfortune of our country that our writers have been poor and the intellectuals economically unsound. The publishers of books are becoming richer and more prosperous. It should be the responsibility of the Government to propagate the ideas and thoughts of the intellectuals and to

[Sh. Mohan Singh]

publish the books of good writers because these personalities influence the generations with their mental capability. When the National Book Trust celebrated centenary of Gandhiji, all his works were available in 80-82 volumes at the cost of Rs. 10. At present if we give that to a publisher for publishing it, the cost would be Rs. 500-600. In such a situation no reader will be able to purchase those books. Munshi Preme Chand passed away in poverty. But the publishers of his copyright got paper from the Government at subsidised rates, took money from the Government and sold the published books at very high rates in the market. A complaint has been registered against them in this connection and a law suit was initiated in the court about the paper supplied by the Government. A lot of unsavoury stories about the heirs of great writers and their publishers have come before the society which have led to of the position in the matter. Now the Government has given copyright of the selected works of Shri Jawaharlal Nehru to the Oxford Press. And Oxford Press is selling that at such a high rate that if an ordinary person wants to read and pay heed to the ideas of Shri Jawaharlal Nehru, it will be a difficult task for him to do so by purchasing the published works.

Therefore, I would like to suggest that it should be responsibility of the National Book Trust and the Government to publish the works of such eminent writers, intellectuals and scientists. For example, centenary of Shri Subramanyam Bharati had been celebrated 6-7-8 years ago but the Hindi version of his books were not published. Had his books been published in Hindi too, it would have benefited the Hindi Knowing persons. I think the copyright owners had no Hindi Translators. So Hindi readers are deprived of the poems and ideas of such a great personality of this era. Similar was the case with the works of Ravindra Nath Tagore. The

Hindi speaking people suffer from a weakness that they are too vocal in demanding use of Hindi, but when they get an opportunity to learn other languages of India, they always lag behind. Therefore, keeping in view their compulsion and inactiveness, I think it will be proper if the Government makes arrangements to make available the Hindi version of the books, poems and ideas, thoughts of such other non-Hindi speaking great intellectuals and thinkers at reasonable rates through National Book Trust and from this point of view there is a need to amend this Copyright Act because we have seen that this Act has created a problem in case of Maulana Azad's works. Maulana Azad expressed his views in a book 'India Wins Freedom' and died later on. Some portion of that book was after 40 years of his death as per his will. And during all these 40 years a lot of rumours were spread regarding Maulana Azad as to what he wanted to reveal though that portion of the Book. What secret did he want to bring to light through this publication; who were the persons and what were the circumstances, responsible for partition of India? The readers of this country had been in confusion for the long 40 years regarding the contents of that portion of the book. A dispute arose after its publication regarding its copyright and this case went upto Supreme Court for this decision as to who would be entitled to get royalty. So the Copyright Act should be amended in case of publication of the books of revolutionary writers, thinkers, leaders, poets and men of literature, who had influenced the entire generation of the country. And it should be the responsibility of the Government to make available these books at reasonable rates through National Book Trust or through its own agency to propagate such revolutionary ideas. With these few suggestions I am in a position to neither to support nor to oppose this Bill. I would like to urge the hon. Minister that an integrated policy on the publication of the books should be formulated. A few days ago a big World Book Fair was organised here. A number of visitors used to go there but among these

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[Translation]

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visitors, the buyers of the books were very few because the prices of the books were very high; so the visitors used to make a round of the Fair and return without purchasing the books. My interest and temptation towards the books also dragged me there and found that the books, which were available at less than Rs. 25 or Rs. 50 about 40-45 years ago, were available at very high prices were beyond my capacity. So the Government should formulate an integrated policy regarding the publication of the books. The Government should own the responsibility of publishing those books which can benefit the society and can propagate the good ideas and thoughts. As per the newspaper reports, the Government proposes to take some concrete measures in this respect and the History of the Indian National Movement is being included in the text books. I would like to urge that it should not only be included in the text books but the History of India's Freedom struggle should also be published in the form of a book which may be available at reasonable prices so that it could be made available to the people interested in it.

With these suggestions, I conclude.

[English]

MR. DEPUTY SPEAKER: Now Prof. Rasa Singh Rawat to speak. Each Member will have five minutes because we have got three more Bills to be passed today.

[Translation]

PROF. RASA SINGH RAWAT (Ajmer): Mr. Deputy Speaker, Sir, I welcome the Bill introduced by the hon. Minister of Human Resource Development, to replace the ordinance promulgated by the President. The intention behind this Bill is related with Shri Ravindra Nath Tagore. Who does not know the world renowned poet Ravindra Nath Tagore? There is a saying in India as to who

can count stars in the sky; who can count the dust particles in desert sand who can count the drops in torrential downpour. Similarly who can describe the stories of the great sons of Bharat Mata. Ravindra Nath Tagore was such a great son of Bharat Mata, as won laurels by writing famous book Gitanjali and won the great Noble Prize.

Optimism and humanism are reflected in the works of Ravindra Nath Tagore. The values of human life have been established through these poetical works. Along with this the national values also are reflected in them. In the circumstances prevailing in the country at present the works of Gurudev Ravindra Nath Tagore are like a light house for us. Today, in the absence of good literary works, an atmosphere of lessivism in the country is prevalent every where. Unrest is developing among the youths because they are not able to get good literature to read which they should have. As a result of which cheap literature is available in the market.

Mr. Deputy Speaker, Sir, through you, I would like to say that as food is necessary for the body similarly literature is essential for the mind. It is just like a food for the mind. Unless and until good literature is created, protected and propagated, the habit of self-study will not develop and good ideas will not originate. An Urdu poet said about the present circumstances -

"Ham un kul kitabon ko, kabile jabti samajhte hain,

Jinko padhkar bete bap ko, khapti samajhte hain."

In such an age when cheap literature is flooding the society, we had the privilege of having some great poets and writers among us. World renowned literary persons like Ravindra Nath Tagore, Munshi Prem Chand, Bankim Chandra Chatterjee, Jay Shankar Prasad and great Hindi poet Surya Kant

[Prof. Rasa Singh Rawat]

Tripathi 'Nirala' or the poets of other languages as Shri Subrahmanyam Bharati. Their works should be given wide publicity through new editions which should be authentic and of good quality and be available at reasonable prices so that our new generation may know our national values, culture, cultural heritage, music, art and literature. It is said:

"Sahitya, Sangeet, kala vihin sakshat
pashu puchha vishan heen."

It would not be hypothetical if I say that Shri Ravindra Nath Tagore set up an ideal by giving such an importance to the literature, music and art.

Sir, while introducing the Bill the hon. Minister said that the term of the copyright of his works was due to expire in 1991. 50 years have passed since he died. In several cases, the term of 50 years is counted from the date of the publication. For example, the term of 50 years is counted after the creation of a work relating to literature, after the music and art. This period has been extended by 10 years. A delegation of the learned people under the leadership of Mr. Savya Sanchi, the Vice Chancellor of the Vishwa Bharti had come to meet our hon. Prime Minister and might have met the hon. Human Resource Development Minister too. They had requested to extend it by 20 years but the Government has extended it only by 10 years. I would like to submit that it should be extended by another 10 years, lest the literature of Ravindra Nath Tagore goes into the hands of a business institution. Earning money should not be the sole target, it should not be out of reach of the common readers. Therefore, it is necessary that its copyright site the Vishwa Bharti should be extended for 20 years. What are the reasons which will compel us to think about it? Most of the speakers have supported it. I want to submit

that the intellectuals of Bengal from the field of literature, art and cinema like Satyajit Ray and Mrinal Sen have opposed extension of the copyright for 10 years. They asserted that this right should not be given to Vishwa Bharati. One institution should not be given the opportunity to establish its monopoly. On the other hand, there is the hon. Chief Minister and the other people of Bengal who say that it should be extended for another 10 years in the name of Vishwa Bharti. There are different views about it, whatever may be the reasons for these views, these difference should be removed.

In view of the prevailing circumstances in Vishwa Bharati, it is essential that the literature of Ravindra Nath Tagore should be translated in Indian Languages and it should be of standard quality and inspiring. The get up and set-up should be proper. The artistic portraits drawn by Ravindra Nath Tagore should be described in such a way it may inspire the whole of the country and the mankind. Sir, no doubt it can be implemented in our country easily but I would like to submit through you that the efforts should be made through the foreign Governments, reputed publishing houses to enter into an agreement with them under this Copyright Act so that it can be implemented there also and the works of Ravindra Nath Tagore reach the common people, big Universities and leading libraries of the world.

Mr. Deputy Speaker, Sir, your bell signals danger. I want to submit that it is written in our 'Shastras':

"Swadhyayanam Pramadha."

Do not be careless towards your study. Nowadays the tendency of study is decreasing among our intellectuals, the renowned lecturers of universities and the thinkers day by day. Due to T. V. and other electronics media the number of the readers of the books has declined. Therefore, the need of

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[English]

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the hour is that the books of high standard may be made available at cheap rates to the common man as Gita Press Gorakhpur is doing. The ideas of the renowned poet, Ravindra Nath Tagore, who had tried hard to inspire the feelings of freedom, social, artistic, literary and cultural awareness and who had spread our honour throughout the country and the world, may reach the common man. There should be some arrangements for publicity. With these words, I support this Copyright Bill.

But I demand that its period should be extended by 20 years so that it may not be misused for making money.

Prem Chandji had to live hand to mouth but today the publishers in his name are rolling in wealth. It should not be so. The literary persons should get the benefit of their writings because they have the copyright. With these words, I conclude. Thank you for giving me an opportunity to speak.

[English]

SHRIMATI GEETA MUKHERJEE (Panskura): Hon. Deputy Speaker, Sir, I thought of speaking in Bengali. Then I thought, since I am speaking on Rabindra Nath, I should speak in English so that everybody understands clearly.

First of all, I would like to explain why I was one of the persons who moved the statutory resolution. That is because of the ordinance. I feel that this problem was known. It was to come. It should have been studied much earlier. About the Act itself, now I am not opposing. But I am also dear about the criticisms which are there about Vishwa Bharti's publications. I think, these should be gone into. At the same time, this is also true that there is a feeling that among various intellectuals in Bengal that monopoly should

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Copyright (Amend.) Bill

not be there. I think, Government will have to think over this thing much more seriously.

Rabindra Nath is not just a way of financing Vishwa Bharti. Rabindra Nath is something more. Let me tell you that during this election, I declared in my constituency that from 25th Baisakh - Rabindra Nath's birthday - to 27th Baisak I shall not speak in my own language. Everything will be in Rabindra Nath's language. Be it a fight for communal harmony, be it a struggle for social justice, be it a struggle against exploitation and oppression of any kind, I tell you, I succeeded in getting all those from Rabindra Nath. Therefore, everyone in our country must have access to Rabindra Nath in different languages. This, of course, does not restrict itself only to Rabindra Nath. But there several other very important writers and poets. I need not name them because there is not much time. Therefore, I think that even if this copyright is reviewed any time after this year, I think, Government will have to bear some responsibility all the time for popularising Rabindra Nath. If you say that you do not have the resources, I will just recite a little couplet of Rabindra Nath and tell you what it is:

[Translation]

"Setting sun was glowing. He asked, 'who will take up my work?' Then, the whole world was agog, speechless. They did not know what to do. There was a small lamp. That lamp rose and said, 'Well, My Lord, I shall do whatever I can to take over your responsibility'."

[English]

Therefore, whatever may be your financial constraints, you have to behave like this 'Maati Pradeep', that is, the little lamp of clay

*English translation of the coblet originally recited in Bengali.

[Smt. Geeta Mukherjee]

who dared to take over the responsibility of setting sun.

So, this is my request to the Government to really always think about lending their hand so that this kind of poetry goes to all our people in all languages. With that, supporting Shrimati Malini Bhattacharya in all the things that she said without repeating here, I conclude.

SHRI KODIKKUNIL SURESH (Adoor): Sir, I rise to support this Copyright (Amendment) Bill. This Act is most helpful to the writers in our country. In India, a number of writer and others have presented valuable books in our country. But these books are not sufficiently available to the country. A very large number of people want to get books by prominent writers. But the problem is that the price is too high. May I request the hon. Minister to consider this problem as well? My another request to the Government is to consider purchasing of foreign books. Valuable books and books for schools and colleges are not available in our libraries. The Government of India should take necessary steps to buy more books and send them to libraries in the rural areas especially. We must encourage people especially students and youths to read and refer those books. I am sure that they will get lot of benefits. Government should also help the writers and authors to write eminent books. The big problem which the authors and writers are facing is the problem of printing charge. Government of India should give assistance to them to publish their books.

SHRI CHITA BASU (Barasat): I rise to congratulate the Minister of Human Resources for bringing about this Bill and of course, my colleague, Mrs. Geeta Mukherjee expressed her disapproval for bringing about or promulgating an ordinance. I think

it is a wrong place criticism. As I know, it is because I belong to that delegation which waited on him and convinced him about the necessity of extending the time for the copy right of Rabindranath Tagore's works. I do not know whether the Government of India could have done it earlier or not. That is a different thing. But I must say that the hon. Minister including the Prime Minister gave the support to extend the time for the copy right of Tagore's works.

Sir, I rise to support this Bill wholeheartedly. Tagore, the philosopher, the author, the composer, the educationist, the artist, the humanist, the advocate of universal brotherhood and harmony has brought eminent invaluable glories to our nation. We have been introduced to the world outside, our prestige has been enhanced in the comity of nations. His works have enriched tremendously our culture, our civilisation, arts and literacy. We are all proud of him and naturally, that is our keenest possible desire to preserve these treasures which Tagore has left for us. It should be our vow not to allow anybody to distort, to defy, to defame these invaluable treasures. We should also take the vow that we must uphold the values that we have inherited from him. Sir, in order to do that, we strongly feel that we should all work in his direction with three specific objectives, namely, to bring about and project authentic Tagore and to bring about a complete Tagore. We should also see that Tagore's works are made available at cheap prices to the vast masses of our country. Of course, it is not only in the language of Bengali. I have no doubt in my mind that everybody knows that many of our national problems that we face today was visualised by Tagore. He also indicated solutions to those national problems that we are facing even today. Therefore, it is not only the question of just one language. Naturally, I want that Tagore's works should be translated into all our vernacular languages and should be made available to the people of our country to

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achieve the objectives that I have mentioned.

Sir, there is no doubt that there is a move to commercialise the works of Tagore. That has prompted many of us and the Government of West Bengal also to see that the copyright is extended by some more years. It is now resting with the Vishwa Bharathi for some time more. This is to see that this his works are not commercialised and distorted and his works are projected in their totality. There are many commercial publishing companies who try to impress upon a section of the people that Vishwa Bharathi should not have the monopoly of publication of Tagore's works. I do not hold any brief for Vishwa Bharathi. As my predecessors have already pointed out, there are negative sides of the achievement and performance of Vishwa Bharati. But at the same time, there are also positive achievements of the Vishwa Bharathi publications. I am against commercialisation of Tagore's works. They should not be commercialised by any publication centre to earn profits.

We want to see complete Rabindranath. If his works are handed over to a commercial firm, they will publish only those which are best sellers, such as *Sanchayata*, *Geeto Bithan*, *Gora*, *Sesher Kavitha*, *Geetanjali*, *Balaka*, etc. But they may not be interested in publishing and popularising his some other works, such as *Palli Prakriti*, *Manusher Dharma*, *Swadeshi Samaj*, *Aroop Ratan*, *Nataraj Ritu Rangashala*, *Beethika*, *Parisesh* and so on which are considered his best works, though they may not be best sellers. Herein lies the significance for asking for a complete Rabindranath, undistorted Rabindranath.

Sir, I do not like to take much of your time. So far as Vishwa Bharathi is concerned, I suggest that the copyright should not be left with the Vishwa Bharathi alone. A national board should be set up to aid and

advise Vishwa Bharathi for the coming ten years at least and this national board may be formed with representatives from Vishwa Bharathi, National Book Trust, Sahitya Akademi, Bangla Akademi and other such organisations as the Government may think fit. It will be proper that the works of Rabindranath Tagore are not allowed to be commercialised on the one hand. On the other, this Board with the help of the Vishwa Bharathi can produce all the works of Tagore in a complete and undistorted manner and serve the cause of the nation. I support this Bill wholeheartedly.

[Translation]

SHRI GIRDHARI LAL BHARGAVA

(Jaipur): Mr. Deputy Speaker, Sir, there is nothing wrong in the Bill moved by the hon. Minister. My submission is that the copyright of Tagore's works should be extended, it was opposed by Satyajit Ray and Mrinal Sen. The main reason of opposing this Bill was only that the hon. Prime Minister Shri Narasimaha Rao Ji is the Chancellor of the Vishwa Bharti; but Shri Jyoti Basuji, Shri Ajit Panja ji and the hon. Arjun Singh ji have asserted that its period must be extended. My submission is that the contention of the Vishwa Bharti was that if the copyright period is over then every Tom, Dick and Harry and if the works of Tagore, the composer to our National Anthem "Jana-Gana-Mana, Adhinayak", were not published properly then it would a blow to the Indian culture. Ravindra Nath Tagore passed away in 1941 and the copyright of his works was coming to an end under the copyright laws of 1957. The right of publishing the works of Gurudev is with the Vishwa Bharti which is an institution established by the poet himself in Shanti Niketan. Then the Government thought, if the right of publication is given to a writer or the Vishwa Bharti then it will cause a great loss, therefore the Government extended the time limit in the case of a writer and its period was fixed between 50 to 60 years and the hon. Minister

[Sh. Girdhari Lal Bhargava]

has brought an amendment here that it should not be 60 but it should be 70 years and this amendment has moved by you. It is said in it that it will not be applicable on those cases whose copyright ended before 31st December, 1991. As per the provisions of Copyright Act, 1970 the right of any work will come to an end after expiry of a period of 50 years. My submission is that in case of writers, playwright the and Artists etc. it starts after their death, but in all the other cases it starts after the year of the publication. of the work.

My submission is that hon. Minister has brought a good Bill and there are no two opinions about it but it would be much better if he includes some suggestions also given by the people. In this Bill time has been extended by ten years that is from 60 to 70 years. Now the ordinance has automatically become uneffective I welcome the extension of time limit by the ten years but would like to request the hon. Minister, who is also a learned person, a scholar of Hindi and is also our Education Minister to include in this Bill all the constructive suggestions made by the hon. Members.

[English]

SHRI RADHIKA RANJAN RRAMANIK (Mathurapur): Hon. Deputy Speaker, Sir, I rise to support the Copyright (Amendment) Bill, 1992 but with some reservations and with some hunable queries and also with one request.

Much has been said about the Bill and about Rabindra Nath Tagore, for whose works this Bill has come before this House. I will not repeat points that have already been made. I will confine my remarks to some new items and in a very few words.

In the Statement of Objects and Reasons it is stated that:

"There had been numerous demands for according protection to his works in view of their national importance."

He means Rabindranath Tagore. So, protection to Rabindranath Tagore's works. So, there are the works and the author, whose works are in question and the readers, the publishers and so many other parties are there who are connected with literary works. Whose interest is primary to the Government? Is it the interest of the works or the author or the copyright holder or the publishers or the reader? To me, it seems that the interest of the readers is to be the primary concern of the Government and perhaps we are all thinking about the interest of the readers. Readers will get the works, the authenticated works at reasonable price and not at the cost of quality.

So, it is stated that, review the whole question. What should be the appropriate term of copyright? What are our criteria for this appropriate terms? If it is only the extension of time, Whether the extension of time is appropriate or the reduction of the terms is the appropriate terms? If it is only a measure, that is the extension of the term is the appropriate terms, then the obvious corollary states that if the protection means the extension of the term, then for more protection, more extension, for more more protection, more move extension and if you go on, there is no limit to it. Why fifty years and why not sixty years and so on? What is the reason behind it? So, you are doing it in and *ad hoc* manner. What is the scientific reason? I want to know from the hon. Minister this. He is a man of learning. What are the criteria to determine this? Unless the object, that is the protection is not achieved within fifty years, then how can you assure that the protection can be achieved within ten years? So, if it is not done in fifty years, then it can also not be done in ten years. Then, again, the question of extension will ocme.

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I want to know the hon Minister whether
he will assure the House that the protection
will be achieved within the extended period?

Now, I would request the hon. Minister,
through you, that he should come with a
comprehensive Bill and not with this type of
piecemeal amendment. It will not serve the
purpose. Because, there are so many items.
There is a piracy in computer software tech-
nology. We, in India, at present, are at par
with a advanced countries of the world in
computer software technology. We can earn
billions of dollars from Third World countries
by exporting our computer software technol-
ogy. There is a random piracy and this piracy
is going on in software technology and also
in audio and video cassettes.

So, I would request the hon. Minister to
come forward with a comprehensive Bill, if
possible, in this Session, so that, threadbare
discussions can be held and various amend-
ments can be brought in.

Lastly, I would thank the hon. Minister
because he has brought this Bill in connec-
tion with the works of Rabindranath Tagore.

18.00 hrs.

So, for this reason, firstly, the Bill origi-
nated regarding the works of Rabindranath
Tagore. So, I must support this Bill; I cannot
go against this Bill. Secondly, the Minister
has good intention.

THE MINISTER OF STATE IN THE
MINISTRY OF PARLIAMENTARY AFFAIRS
AND MINISTER OF STATE IN THE MINIS-
TRY OF LAW, JUSTICE AND COMPANY
AFFAIRS (SHRI RANGARAJAN KUMAR-
MANGALAM): There was a feeling among
many Members that the 20TH March, Fri-
day, should be a holiday. At the same time,
we have a time constraint on seven Ordi-
nances to be got through within a time limit.

Today, if we could sit for two hours,
maybe we could finish three Ordinances on
the list; and it would make it convenient for us
to finish the other business tomorrow; and
Friday could be a holiday. In the light of that,
may I request that we sit for two house
today? I will be obliged if the House agrees
with it.

SHRI CHITTA BASU (Barasat): We may
take up another Bill, not three Bills.

SHRI CHANDRA JEET YADAV (
Azamgarh): As the Minister has made a
proposal, we should take a decision on this.
This is true an understanding was there.
This is a fact that there is a general feeling
amongst the members that if House opens
on the 20th, they will come back and then
again they will have to go because of Satur-
day and Sunday. So, it was thought that 20th
should be a holiday. We also agree that we
will help in passing all those Ordinances
before the 27th March. This was the under-
standing. Last day you were saying and we
said we will pass all the Bills; if necessary we
will extend the time of the House.

I think if all the hon. Members agree, we
have no objection; we can do that.

MR. SPEAKER: I think the House agrees
with the proposal moved by the hon. Minis-
ter.

SHRI RAM KAPSE (Thane): We will let
you know our reaction within five to ten
minutes.

SHRI RANGARAJAN KUMARAMAN-
GALAM: At the moment, what I am asking is
the extension of the time of the House for two
years. You agree to this. We can decide in
the Bills and all that later.

SHRI RAM KAPSE: About the next Bills,
we have something to say. Please wait for
five minutes.

SHRI RADHIKA RANJAN PRAMANIK:
I cannot but support this Bill, because it has originated in the names of Rabindranath Tagore. This is the first cause. Secondly, the Bill has come with a good intention of the hon. Minister; and I appreciate his good intention. Thirdly, I expect that in the near future, if possible, in this Session, he will come forward with a comprehensive Bill to cover all the items include computer technology, video cassettes and audio cassettes.

And last but not the least, I was MLA for 23 years and now I am an MP for three years. In my life time, I have never seen such a simple Bill; it is the simplest one; this is the simplest ever Bill that I have come across in my life. So, I cannot but support this Bill, a very simple Bill, a very humble Bill and the simplest one. So, with many thanks to our hon. Minister, I support this Bill.

[Translation]

PROF. PREMDHUMAL (Hamirpur): Mr. Deputy Speaker, Sir, as the earlier speakers have asserted that if any proposal linked with the name of Ravindra Nath Tagore comes, it will be welcomed. Ravindra Nath Tagore is a personality beyond the limits of time, region and country. Everyone will acclaim the proposal regarding him. I too welcome it.

Hon. Sir, I had a chance to visit South Africa with the Parliamentary delegation. We visited the capital of Argentina, Buenos Aires, where a friend of Ravindra Nath Tagore lived. The house, where Ravindra Nath Tagore had stayed and had fallen ill, has been preserved as a monument. Today we welcome the Bill which has been brought to keep up his works safe and to maintain their standard.

Mr. Deputy Speaker, Sir, the previous speakers have also said that the copyright has been extended from 50 to 60 years and an amendment has been tabled that it should be extended not by 10 years but by 20 years

and it should be made for 70 years, then I want to know how the purpose can be achieved only in next 20 years when it has not achieved in 50 years and how this right can be protected.

I am fully agree with this fact that the good works should be given protection but is it possible by enacting laws only? I would like the hon. Minister to clarify this situation when he gives reply to all these queries.

The N.C.E.R.T. which is associated with the department of the hon. Minister, publishes books; these books should be made available through Government depots but you will be surprised to know that these books are not available there but the duplicate of these books are openly being sold in the market.

I would like to warn the Government of the situation in which even the Government publications are pirated and sold in the open market. Under such circumstances, it is to be seen, how far the Government would be able to implement the Bill. The hon. Minister may please clarify in his reply as to what extent he would be able to implement this provision. When the authorised books of your Ministry are not available at your depots, but the same are available in black market.

Since the time is short and much remains to be done. I would like to repeat only these two things. Would the Government be able to do now what it has not been able to do for fifty years and implement the provisions of Copy-Right Bill and check the piracy of books in 60 to 70 years which it could not do in 50 years. The hon. Minister may explain while replying to these two questions. With these words, I thank you.

SHRI RAMASHRAY PRASAD SINGH (Jahanabad): Mr. Deputy Sir, I support the Bill which has been brought forward. Shri Ravindra Nath Tagore was an outstanding personality of our country. He has added to the prestige of our country. That is why I support the Bill. We should protect his works of art. His writings should be maintained in

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the interest of the country. It is our heritage. It is the job of the Government to remove the irregularities in this regard.

Mr. Deputy Speaker, Sir, there has been a lot of criticism with regard to Visva Bharati. The Government should take it seriously and the monopoly of its publication should be cancelled. He was proficient not only in one language but in many languages, so his poems should be known and read in every language, how would you be able to stop it in 90 years when you could not stop it in 50 years? It appears from the time extended by you. Keeping it in view, you should give a satisfactory reply to this question. Besides, it should be translated, in every language so that it is made more popular. Efforts should be made so that his writings reach everybody in his native language.

Finally, I would like to say that he was an outstanding scholar of our country. It is our duty to preserve the heritage provided by him. With these words, I conclude.

SHRI GEORGE FERNANDES (Muzaffarpur): Mr. Deputy Speaker, Sir, I fail to understand the reason behind the support being extended to this Bill. The Government should leave aside the provisions of Copyright Bill if the works of Rabindra Nath Tagore are to be made popular among the masses. On the other hand, we should ask everybody to publish these and distribute them to the maximum possible extent. I have not been able to understand the concept behind the implementation of provisions of Copyright Act in the case of such a person whose writings are a big achievement for the society as well as the whole world. How far is it correct to confine his ideas bound under the provisions of Copyright Bill?

Books and speeches of Mahatma Gandhi are in 150-175 volumes. Efforts should be made so that the ideas of such a great soul and his ideas should be made available at cheaper rate not only to the Indian public but throughout the world. In my opinion, the writings of Rabindra Nath Tagore come under a category for which we

should make efforts to make these available to the public of the world. These writings should not be confined. I don't understand the rationality behind extending 10 years, i.e. from 50 years to 60 years. It would be better if the Government would bring forward a Bill in the Parliament for the sake of one argument in which copyright in India is maintained as long as that man or institution is existing. Extending 10 years from 50 years to 60 years does not make any difference. After 10 years, the provisions of Copyright Act will not be applicable on his writings. Thereafter, we would have the right to get it published and distribute it in our respective regions.

The duration of copyright expired on 31st December, 1991. I do not understand the logic behind its extension by 10 years. I am unable to understand the terminology used in the Bill to protect the views of Shri Rabindra Nath Tagore. I would like the hon. Minister to clarify it. I want to raise some fundamental issues on copyright. Since in India we see variety of collected works in book-shops and particularly in Government libraries. These collected works include many writings such as speeches as the Ministers or Prime Minister, prepared by the concerned bureaucrats. If anything is written after going through a lot of study, before becoming a Minister or Prime Minister, it is undoubtedly historic. For example, the writings of Pandit Jawahar Lal Nehru are a historical record. There cannot be two opinions about it. But the Minister reads out the speech which is prepared by an I.A.S. officer or some speech writer. If such speeches are collected which are delivered during the tenure of the hon. Minister and they are got printed by utilising the services of every Ministry, especially Ministry of External Affairs and Ministry of Home Affairs, and they are published as the collected works of the speeches of George Fernandes, it would be a case of dishonesty furthermore, if the Minister demands royalty for such collected works. It goes without saying that it is a case of dishonesty. I feel sorry to say that these things are happening in India on a large scale. As regards the question of copyright,

[Sh. George Fernandes]

I would like to know from the hon. Minister as to how many volumes of collected works of these speeches, prepared by the concerned Departments have been printed by the Government or any other agency. We would like that the hon. Minister, after taking the House into confidence, should state as to what amount the Ministry of External Affairs or any other Ministry has spent in procuring them and whether its royalty is being given to the members of their families.

It has become the practice to misappropriate the public funds whenever one gets an opportunity to do so. The hon. Minister may consider the point and help us in solving this problem. We have been discussing this issue since long. When our hon. Minister of Railways has delivered a speech today, some official has written it and the hon. Minister only read it out. He was facing some difficulty even in reading it. He had delivered a speech on Railway Budget last year also. Prior to this also he had been the Minister of Railway. Is there any honesty or morality if the Ministry of Railways or Government of India gets the collected speeches of Jaffer Sharief printed and sells it to libraries of all the States and then makes it available to all the embassies of the world through our embassies, what degree of honesty and morality it would have. Will it not be tantamount to international misappropriation of funds?

How far it is morally right and how far justified that while it is published by the Government of India, yet its copyright is retained by the son, grandsons and granddaughters of Shri Jaffer Sharief? I would therefore like to have an assurance from the hon. Minister that detailed information should be made available to know as to how many such books have thus been published, are being purchased or sold and the same would be placed before the House. Because you are the Minister of Human Resource Development and you have been repeatedly giving assurances in and outside the House to safeguard all those values. So, you should check the onslaught on those values. This

practice of selling the speeches prepared by the bureaucrats to make money by their family members should be stopped. I had to say only this about this Bill.

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT (SHRI ARJUN SINGH): Hon. Mr. Deputy Speaker, Sir, let me first take the matter raised by Shri George Saheb because even if what he has said has no direct relation with the present Bill, yet it relates to a practice and public issue. I am, however, not in a position to give detailed information which he has sought, but how far the Copyright Act provides or does not provide protection to such books or how the people are benefited by it is not a matter of interest for him alone; the correct information should be brought forward and I would try to know the correct position.

So far as this Bill is concerned it is clear that it has been brought forward for only one purpose and that is raising the period of validiting of copyright from fifty to sixty years. A question has been raised as to why an ordinance was passed and secondly, What is the justification of raising the period from fifty to sixty years? I would like to submit, Mr. Deputy Speaker, Sir, that efforts were being made for the last four-five months for a large scale amendment in the copyright Act. Opinions of the people of India and of the institutions concerned with it were invited. Notes came from the individual authors, and from the institutions affected by it, film-industry and author's guild. We were carrying out that process and we hoped that we would be able to put the amended Copyright Bill before the House and there it self we would make provision to raise this limit. But unfortunately that work could not be concluded. A strong proposal has been made by many honourable Members from Bengal, by the hon. Chief Minister and also by several intellectuals that it should be raised and it should be raised by twenty years. There was another view as well, which has to some extent been referred to here, that it should not be raised at all. There is not a fixed criterion for it, but, after hearing the views of both the sides it was considered proper to strike a

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balance and that is why the idea of raising the limit by ten years came.

We cannot really assess the works of a great man of our country-revered Gurudev Tagore who gave expression to his feelings in written words and thereby became famous throughout the world. His merit is being appreciated by the whole world and history will be doing so far centuries. I agree that his works must be published in their totality and care should be taken to maintain their authenticity. Whatever is being done towards this by the Vishwa Bharti is really commendable. The hon. Members have rightly told that what must be done is for some reasons not being done. If a help from outside is required to complete it, we must do that.

An honourable Member has given suggestion of setting up of a national board. I cannot assure about a board, but what has been stated by the members of the House about the activities of the Vishwa Bharti, I would certainly put that matter before the Vice Chancellor of the Vishwa Bharti and also before the prime Minister who happens to be the Chancellor. It is hoped that keeping in mind the sentiments of the people, the Vishwa Bharti will take appropriate steps. At the moment it would not be proper for me to go into the complaints that have been made against the Vishwa Bharti, I would certainly take that matter when an occasion comes. Various suggestions have been given regarding the copyright act, I can only say that the work to revise the copyright act which was taken up is now complete and I hope we will be able to bring a comprehensive Copyright (amendment) Bill in the House during the current session and then we are ready to extend our full help according to their suggestions or whatever action they want.

Hon. Deputy Speaker, Sir, in the end I would only like to say that though this Bill is very brief and simple but the sentiments behind it are great and respecting to that very sentiments, all the hon. Members have supported that. I am very thankful to them

and I would request the House that this Bill may be passed.

SHRI GIRDHARI LAL BHARGAVA (Jaipur): I hope that the hon. Minister would soon bring a Comprehensive Bill as per his assurance and the period would also be extended. Since they have brought this Bill with clear intention, I therefore, seek leave of the House to withdraw my resolution disapproving the ordinance.

[English]

MR. DEPUTY SPEAKER: Has the Member leave of the House to withdraw his resolution.

SEVERAL HON. MEMBERS: Yes.

The Resolution was by leave, withdrawn.

MR. DEPUTY- SPEAKER: Now I shall take up the motion for consideration of the Bill.

There are two amendments.

[Translation]

SHRI GIRDHARI LAL BHARGAVA: Respecting the sentiments of the hon. Minister I withdraw my amendment.

[English]

MR. DEPUTY SPEAKER: Has the Member leave of the House to withdraw his amendment.

SEVERAL HON. MEMBERS: Yes.

Amendment No. 1 was by leave, withdrawn.

[Translation]

PROF. RASA SINGH RAWAT (Ajmer): Respecting the sentiments of the hon. Minister I withdraw my amendment.

999 Stat. Res. re. disapproval MARCH 17, 1992
of copyright (Amend.) Ordinance and

Amendment No. 2 was, by leave, with-
drawn.

[English]

MR. DEPUTY-SPEAKER: I shall now
put the motion for consideration of the Bill
to the vote of the House.

The question is:

" That the Bill further to amend the
Copyright Act, 1957, be taken into consid-
eration."

The motion was adopted.

MR. DEPUTY-SPEAKER: We shall now
take up clause-by-clause consideration of
the Bill. First, let us take up clause 2.

Shri Rasa Singh Rawat, are you moving
your amendment?

[Translation]

PROF. RASA SINGH RAWAT: Sir, as
regards the extension, I would like to request
that it should be done after detailed discus-
sion on it. I would not move my amendment.

[English]

MR. DEPUTY-SPEAKER: The
question is:

" That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

MR. DEPUTY SPEAKER: The
question is:

" That clause 3 and 4 stand part of
the Bill"

The motion was adopted

Clause 3 and 4 were added to the
Bill

Copyright (Amend.) Bill 1000

MR. DEPUTY SPEAKER: The
question is:

" That clause 1, the Enacting Formula
and the Long Title stand part of the Bill"

The motion was adopted

Clause 1, the Enacting Formula and the
Long Title were added to the Bill.

[Translation]

SHRI ARJUN SINGH: I beg to move "
That the Bill be passed."

[English]

MR. DEPUTY SPEAKER: That
question is:

" That the Bill be passed."

The motion was adopted

18.31 hrs.

STATUTORY RESOLUTION RE. DISAP-
PROVAL OF THE REPRESENTATION
OF PEOPLE (AMENDMENT) ORDI-
NANCE, AND REPRESENTATION OF
THE PEOPLE (AMENDMENT) BILL

As Passed by Rajya Sabha

[English]

MR. DEPUTY SPEAKER: Now, we shall
take up item nos. 18 and 19 together. Shri
Girdhari Lal Bhargava.

[Translation]

SHRI GIRDHARI LAL BHARGAVA
(Jaipur): I beg to move:-

" That this House disapproves of the
Representation of the People (Amendment)
Ordinance, 1992 (Ordinance No. 1 of 1992)

the things that Members think should get priority. On that, there is no difference of opinion. And particularly, if I understand the Government's argument, they are willing to listen to the Opposition first and on a priority basis. However, it so happens, as the Parliamentary Affairs Minister has just now mentioned, that there is more than one ordinance. Some are still being discussed in the lower House. There is a deadline. So, if you have some views on the issues covered by those ordinances, you would need some time. For that reason, it is necessary to see that all the ordinances are not bunched together for tomorrow. Then, we will have to apply the guillotine and you will have views which could not be articulated. So, if we share between today and tomorrow some ordinances, it will serve the purpose. I do not think it is the intention of the Government. Certainly they have not said so. I am sure that they do not mean that we should not give time for special mentions. I know, as Member of the House, that all of us are interested in bringing special mentions because it concerns the people in our perception and we are under pressure to do that. The question is, how do we go about the three things? We will discuss everything, all the three things, if the House cooperates. Sequencing is immaterial. Now, if you are agreed with this proposition that four ordinances need not be bunched together for tomorrow, then let us share between today and tomorrow. In that context, the Copyright issue can be taken up immediately and after that... (*Interruptions*).

SHRI SHANKAR DAYAL SINGH: Half-an-hour discussion.

THE VICE-CHAIRMAN (PROF. CHANDRESH P. THAKUR): As far as I am concerned, if the House agrees, it can be taken up. But there is no question of not taking up. Now, we will take up the Copyright Bill.

**THE COPYRIGHT (AMENDMENT)
BILL, 1992**

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT (SHRI ARJUN SINGH): Sir, I beg to move:

That the Bill further to amend the Copyright Act, 1957, as passed by Lok Sabha, be taken into consideration.

Sir, I would like to draw the attention of hon. Members to this small Amending Bill which, in fact, arose out of a public demand that the copyright in regard to the works of the national poet Shri Rabindranathji Tagore was expiring on the 31st December 1991. It was considered that in view of many factors, this should be extended for some time. We had a discussion in the meantime, Sir. We are already, examining a much more comprehensive Copyright Amendment Bill and that Bill has already been drawn up. In the meantime, this time factor intervened and until we did something about this before 31st December, the purpose would not have been served. Therefore, this Ordinance was passed only for that specific purpose to extend the copyright from 50 years to 60 years. Since it has to do done for everyone, we could not have done it for only one person whatever be the situation. This is only that. Subsequently, in this Session, we are bringing a comprehensive Copyright Amendment Bill, which will then be considered by the House and according to its own wisdom, it shall be passed.

In this background, I make a very humble request that this is a Bill which does not take into consideration any comprehensive aspect of the Copyright Act and therefore, this House, in its consideration, would kindly pass this. We would be very grateful if with the cooperation of Shri Shankar Dayal Singh Ji, it is passed without discussion. (*Interruptions*)

SHRI JAGESH DESAI (Maharashtra): Are you going to bring a comprehensive Bill during this Session or during the next Session?

SHRI ARJUN SINGH: During this Session.

SHRI JAGESH DESAI: Then it should be passed without discussion.

The question was proposed.

THE VICE-CHAIRMAN (PROF. CHANDRESH P. THAKUR): The

motion for the consideration of the Bill is now open for discussion. Are there people interested in speaking? Mr. Shankar Dayal Singh, would you like to speak on this?

श्री शंकर दयाल सिंह (बिहार): उपसभाध्यक्ष जी, मुझे खुशी है कि सरकार ने पुस्तकों के प्रतिलिपि के अधिकार के संबंध में संशोधन विधेयक, 1992 हमारे सामने प्रस्तुत किया है। महोदय, लोकसभा ने इस पर पहले ही विचार कर इसे पारित किया है और आज लोकसभा द्वारा पारित और संशोधित विधेयक पर हम भी अपनी मोहर लगाने के लिए खड़े हुए हैं।

महोदय, यह सदन राज्यसभा, एल्डर्स हाउस कहा जाता है, इसलिए मैं यह भी आवश्यक समझता हूँ कि जो कुछ भी हमारे उस सदन से छूटा हो या भूलवश रह गया हो, इस संबंध में भी हम कुछ निवेदन करें। उपसभाध्यक्ष जी, मैं यह कहना चाहता हूँ कि माननीय मंत्री महोदय ने जो विधेयक हमारे सामने पेश किया है, जिस पर कि हम विचार कर रहे हैं, उसमें 50 साल से बढ़ाकर 60 साल का समय निर्धारित किया गया है। पिछले दिनों जब भारत की जनगणना हुई थी तो उसमें भी मनुष्य की आयु बढ़ गयी और निश्चित रूप से लेखकों की भी आयु बढ़ती चली जा रही है। मैं समझता हूँ कि इन सारी बातों को देखते हुए 60 साल की अवधि के बजाय आपको कम-से-कम इसे 75 वर्ष की अवधि रखना चाहिए था। फिर 10 साल बाद यह हो सकता है कि लोग कहें कि नहीं, यह अपूर्ण है। इसलिए एक तो मेरी पहली राय यह है कि इसे 75 वर्ष करें। अब यह कॉपी राइट का जो सिलसिला है, तो यह ठीक है कि भारत सरकार या मंत्री महोदय को पश्चिम बंगाल के मुख्य मंत्री श्री ज्योति बसु ने फोन पर यह कहा कि रवि बाबू की रचनाओं का कॉपी राइट 31 दिसंबर, 1991 को समाप्त हो रहा है और विश्व भारती के चांसलर या कुलपति माननीय प्रधान मंत्रीजी हैं, इसलिए इसको ध्यान में लाकर रखा गया। लेकिन आप स्वयं प्रोफेसर हैं और ज्ञान में एक श्रेष्ठ व्यक्तित्व हैं, इसलिए मैं आपसे कहना चाहता हूँ कि हमारे लिए जिस तरह गौरव की बात कवि गुरु रवि बाबू की पुस्तकें हैं उसी तरह से अन्य पुस्तकें भी हमारे लिए गौरव की वस्तु हैं। मैं समझता हूँ कि इसकी एक परिधि यह होनी चाहिए थी कि बहुत से ऐसे लेखक हैं भारतीय भाषाओं में, हिन्दी में अभी प्रेमचंद जी की शताब्दी पूरी हुई, प्रसाद जी की शताब्दी पूरी हुई है और उनकी पुस्तकों के प्रकाशन को लेकर, रायल्टी को लेकर भी वही झंझट है। उस समय सरकार ने इस पर कोई कार्यवाही नहीं की। रवि बाबू का जब प्रश्न आया कि कार्यवाही होनी चाहिए, हमारे बहुत ही श्रेष्ठ हैं। इसमें कोई दो राय नहीं है, भारतीय मानस और पूरा विश्व उनके प्रति आदर रखता

है। इसलिए उन्हें कवि गुरु हमने कहा है। लेकिन, साथ-साथ इस क्वा ज में कुछ ऐसा करना चाहिए था कि जिन भारतीय भाषाओं के अन्य रचनाकारों की पुस्तकों की रायल्टी का प्रश्न विवाद का विषय बना हुआ है साल, दो साल के अंदर, उनको भी इस परिधि में लाना चाहिए था, विशेष तौर पर जैसे जयशंकर प्रसाद जी और प्रेमचंद जी की पुस्तकें हैं। उनकी ओर मैं ध्यान दिलाना चाहता हूँ। इसी के साथ, एक बात और जो रायल्टी के संबंध में कहना चाहता हूँ, जो बहुत ही आवश्यक है, इसी में आपको यह स्पष्ट करना चाहिए था, जिसके बिना मैं समझता हूँ कि यह बड़ा अधूरा रह गया है, एक तो रायल्टी हम वैसे पुस्तकों पर देते हैं, जो पुस्तकें रचनाकार की अपनी मौलिक रायल्टी उन पुस्तकों पर देते हैं, जिनका हम संकलन करके संपादन करते हैं या सरकारी भाषण के रूप में वह जिल्द के रूप में आती है, उसके बारे में स्पष्टीकरण करना सरकार का कर्तव्य है।

उपसभाध्यक्ष जी, आप जानते हैं अच्छी तरह से, कि बहुत से लोग ऐसे होते हैं जो मूल रचना नहीं करते, मौलिक लेखन नहीं करते, लेकिन संकलन करके एक जिल्द में बांधकर संपादन कर देते हैं। कोर्स में लगवा देते हैं और रायल्टी पाते हैं। यह हक किनका बनता है? हक उस संपादक का बनता है, जो चयन करेगा या उस लेखक का बनता है जो रचनाकार है? इस तरह से पता लगाएँ, माननीय मंत्री जी प्रकाशन विभाग से, नेशनल बुक ट्रस्ट से, एन०सी०ई०आर०टी० से जरा पता लगाएँ और तब आपके पता चलेगा कि सरकारी ओहदे पर रहते हुए बहुत से लोगों ने जो भाषण दिए, उनके सेक्रेटरीज ने जो लेख लिखे या बड़े-बड़े समारोह में पढ़ने के लिए उनके डिपार्टमेंट ने जो भाषण तैयार किए, उनका संकलन तैयार हो गया और उस पर भी उसकी रायल्टी मिल रही है।

अब आइए, दूसरी ओर सरकार ने यह बिल लाया। हमारे सामने है कि रायल्टी की रक्षा के लिए आप 60 साल कर रहे हैं। अब यहां माननीय मानव संसाधन विकास मंत्री जी बैठे हुए हैं, पहला सवाल मैं यह पूछना चाहता हूँ कि सबसे बड़ा आपका एक विभाग है पुस्तकों का एन०सी०ई०आर०टी० जो करोड़ों रुपयों का व्यवसाय करता है और कोर्स में जो किताबें चलती हैं उनके प्रकाशन और वितरण के कार्य में। जरा आप पता लगाएँ कि वे अपने लेखकों को कितनी रायल्टी देते हैं और देते भी हैं या नहीं? मैं अपनी जानकारी से आपको बता दूँ, चूंकि मैं उनका एक लेखक रहा हूँ और दो पुस्तकें उनके लिए मैंने लिखी हैं। दस हजार रुपया पूरी पुस्तक का उन्होंने दिया, जबकि एक-एक पुस्तक की एक-एक लाख से अधिक प्रतियां उन्होंने बेचीं। इस पर कौन कदम उठाएगा? सरकार को स्वयं उठाना है।

माननीय उपसभाध्यक्ष जी, मैं आपके माध्यम से

तीन-चार बातें बहुत संक्षेप में कहना चाहता हूँ। पहली बात, तो यह कहना चाहता हूँ कि यह जो एयल्टी के संबंध में संशोधन विधेयक, 1992 आया है, एकरूपता लाने की दृष्टि से भारतीय भाषाओं या भारतीय प्रकाशनों के सभी प्रकाशनों को इसके अंतर्गत लाना चाहिए था और उन विवादग्रस्त लेखकों की रचनाओं के लिए भी उन्हें कहीं कोई परिधि रहनी चाहिए, जिससे उनकी रक्षा हो सके। दूसरी बात, मौलिक लेखन, संपादन, संकलन इसका भी अलग-अलग कहीं न कहीं कोई विशेष उल्लेख होना चाहिए। तीसरी बात, जो सरकारी प्रकाशन है, सरकार द्वारा प्रकाशित पुस्तकें, एक प्रकाशन को हम कहते हैं ब्रीस प्रतिशत दो कमीशन और जो एन०सी०ई०आर०टी० जैसी संस्था जब किसी लेखक से किताब लिखवाए और केवल दस हजार रुपया दे। तीन पुस्तकें उन्होंने लिखवाईं मुझसे जवाहर लाल जो पर लिखवाईं, सरदार वल्लभ भाई पटेल पर लिखवाईं और जय प्रकाश नारायण जी पर लिखवाईं और स्वयं उनका कहना है कि इसकी तीस-तीस, चालीस-चालीस, पचास-पचास हजार प्रतियां बेची हैं। उन्होंने हमको क्या दिया? दस हजार रुपया। मैं तो भुक्तभोगी खड़ा हूँ आपके सामने, आपके दरबार में खड़ा हूँ। आप ही एक रक्षक हैं। तो सत्कार जब तक इस ओर ध्यान नहीं देगी, देखेगी नहीं तो हम दूसरों को क्या कह सकते हैं?... इसके साथ जो एक बात मैं कहना चाहता हूँ, वह यह है कि जिन पुस्तकों के 50-60 साल पूरे हो गए, जैसे बंगला के छातिनामा लेख को, बंकिम बाबू की पुस्तकों का दर्म खत्म हो गया है, कोई छाप सकता है, शारद बाबू की कोई छाप सकता है...

उपसभाध्यक्ष (प्रो० चन्नेश पी० ठाकुर): समय पर भी ध्यान रखिए।

श्री शंकर दयाल सिंह: बिल्कुल। मैं समाप्त करने पर हूँ। जब आप घंटी बजाएंगे, मैं खत्म कर दूंगा। मैं एक बात जरूर कहना चाहता हूँ कि पुस्तकें ज्ञान की, जीवन की, समाज की एक मर्यादा हैं, तो पुस्तकों की शुचिपूरता के बारे में मैं क्यों कह रहा हूँ? जिनकी अवधि समाप्त हो गई है, उनको कोई छाप सकता है, लेकिन आज आप देखिए कि शारद चन्द्र जैसे विश्व विख्यात उपन्यासकारों की पुस्तकें बाजार में कैसे बिकती हैं। सड़े-गले न्यूज़ प्रिंट पर छापकर लोग इस कदर से उसकी पुडिया बनाकर बेचते हैं, कुछ इसके ऊपर भी सरकार को ध्यान देना चाहिए।

अंतिम बात जो मैं कहना चाहता हूँ, वह यह है कि एयल्टी तो आप निर्धारित कर देंगे लेकिन जो नकली किताबें छप रही हैं, मूल प्रकाशक कोई है मुंबई में लेकिन अगर वह किताब चल गई तो दिल्ली में उसको कोई छाप लेगा हजारों-लाखों प्रतियों में और उसको

हजारों-लाखों प्रतियों में बेच लेगा, उसके लिए आप क्या करने जा रहे हैं?

SHRI P. SHIV SHANKER (Gujarat): If it is covered by the Copyright Act then it is a criminal offence.

श्री शंकर दयाल सिंह: मैं वही तो कह रहा हूँ कि उसके बारे में भी आपको इसमें लाना चाहिए और इन्हीं बातों को ध्यान में रखते हुए मैं माननीय मंत्री महोदय से यह कहना चाहता हूँ कि आज एक अच्छा विधेयक...

श्री पी० शिव शंकर: एक विधेयक ला रहे हैं।

श्री शंकर दयाल सिंह: मैं वही तो कह रहा हूँ कि जो आप विधेयक ला रहे हैं, उसका हम स्वागत करते हैं। इसलिए स्वागत करते हैं कि सदन में हर तरह की बातें उठती हैं और सदन का समय भी बहुत कुछ ज़्यादा होता है, लेकिन सदन में ज्ञान-गरिया की बातें बहुत कम इन दिनों उठ रही हैं, मैं समझता हूँ कि उस संदर्भ में यह बिल हमें कुछ रोशनी दे सकेगा।

इन्हीं शब्दों के साथ हम स्वागत करते हैं और आशा करते हैं कि जो कुछ थोड़े-बहुत सुझाव हमने आपके सामने रखे हैं, उन पर आप अवश्य ध्यान देंगे।

SHRI N.K.P. SALVE (Maharashtra): Sir, the purpose for which this amendment has been brought is absolutely an exception. There are two points only that I would want the Minister to react to. Sir, some works are invaluable and priceless legacy of the Indian culture. We have made... (Interruptions)...

श्री अन्नन्तराय देवशंकर दवे (गुजरात): इन्होंने तो सभी नाम विदड़ कर लिए हैं?

उपसभाध्यक्ष (प्रो० चन्नेश पी० ठाकुर): बोल नहीं रहे हैं, हां सभी नाम विदड़ कर लिए हैं, एक छोटा सा सबमिशन कर रहे हैं।

Are you going to

make a speech?

SHRI N.K.P. SALVE: If you consider it a speech or intervention, there are only two points I want to raise in two minutes. If you have any objection I will sit down. Sir, these two points, I think, the House would be interested in knowing. We have raised the limit from fifty years to sixty years. But there are certain works which constitute a priceless legacy of the Indian culture itself. After ten years, again the question will arise. Would you, in the meanwhile, Mr. Minister—I would like to know from

[Shri N.K.P. Save]

you—ensure that the copyright's subsistence becomes permanent of such works? Again, after sixty years the same difficulty must not arise. That is one. The second point is that clause 3 of this Bill provides, I quote:

"For the removal of doubts, it is hereby declared that copyright shall not subsist by virtue of this Act in any work in which copyright did not subsist immediately before the commencement of this Act."

Sir, I would like to know from him that if there is some piece of work which is not covered by this Act and which needs to be covered, what measures he would take.

THE LEADER OF THE OPPOSITION (SHRI S. JAIPAL REDDY): Would you kindly yield for a minute? Mr. Vice-Chairman, Sir, I wish to draw your attention to a matter not relating to this. Today, just now, our External Affairs Minister made a *suo motu* statement in regard to a note he handed over to the External Affairs Minister of Switzerland. I demand, therefore, that the same statement be made in the Rajya Sabha as well because we raised the matter during the Zero Hour here. Of course, they are going to have discussion. If the *suo motu* statement has been made by the External Affairs Minister in the Lok Sabha, it is only but proper and meet that it should be made here also.

THE VICE-CHAIRMAN (PROF. CHANDRESH P. THAKUR): The Minister is listening.

SHRI GURUDAS DAS GUPTA (West Bengal): Sir, I want one minute. We have never considered that we are superior or inferior to anybody. But the point is, if this important statement could have been made in the other House, it means that this House is discriminated against. Sir, this act of discrimination makes me feel humiliated. But let us not humiliate any of the two Houses of Parliament.

THE VICE-CHAIRMAN (PROF. CHANDRESH P. THAKUR): I don't think this is the intention of the Government.

SHRI GURUDAS DAS GUPTA: I believe, it is not the intention of the

Government. But objectively it means that this House becomes inferior in the sense that an important statement is being made in the other House. Why are we being completely deprived of the opportunity of listening to the Minister and asking questions? Sir, objectively we have become second to Lok Sabha. It should not happen.

THE VICE-CHAIRMAN (PROF. CHANDRESH P. THAKUR): There are two things, very simple. The Leader of the Opposition has said that a statement has been made in the other House. He demands that a similar statement should be made in Rajya Sabha. I think, this is a fair request and the Government will certainly consider it.

SHRI GURUDAS DAS GUPTA: Sir,...

THE VICE-CHAIRMAN (PROF. CHANDRESH P. THAKUR): You have made your point. The question is, the Government should not discriminate between one and the other. I don't think, at any stage, the question of discrimination arises. I am sure, these sentiments are sincere. If there is such impression, then the Government will make sure that no such thing arises.

SHRI N.K.P. SALVE: Sir, I would like to end my speech by submitting that such invaluable and priceless works which are not covered by this Act, at the commencement of this Act, need to be covered. Such a contingency can arise. May I therefore, know, while he is reacting, whether this aspect of the matter would be looked into and on both these points some views will be taken?

SHRI GURUDAS DAS GUPTA: Sir, I am thankful to you for giving me an opportunity to speak. This is one of the rare occasions when I find myself in complete agreement with the attitude that the Government has taken.

THE VICE-CHAIRMAN (PROF. CHANDRESH P. THAKUR): I am sure there will be many more occasions.

SHRI GURUDAS DAS GUPTA: It is on just a common wave-length that we stand, while giving support to the Government, while giving congratulations to the Government that it deserves.

Sir, I want to tell you that 'we had been

in constant contact, with some of the Members of Parliament from West Bengal, and had been in constant touch with the Prime Minister for a number of months. I must congratulate the Government because they have stood the pressure, they have stood persistent pressure of leading publishing houses of the country. Taking advantage of the probable termination of Copyright before it was amended, somebody wanted to make money by commercialising some of the best creations of our cultural life. This is very clear. Somebody thought that if this Copyright was not amended, Tagore's works could be printed and they can make money, they can mint money. Therefore, I support the Government because this is a move against the commercialisation of India's cultural heritage. The question is not of Tagore, the question is that we must protect our heritage in the way it deserves. People must not be allowed to make money out of the creations that India has made through its great achievements, through its great sons and daughters. Therefore, I give my total support to it. I support the Government because it has stood the pressure. It has not yielded to them. I would like the Government, in the same way as my other colleagues did, to extend the Copyright further. I would respectfully request Mr. Arjun Singh to kindly consider in what way the best cultural works, best intellectual creations of our nation can be protected by the community and society as a whole. Let them not be allowed to be exploited by the business world. In what way can that be done? There are cases in some countries of the world where the Copyright is given special extension in special cases. I want to know whether you can consider that. Therefore, I congratulate the Government and I believe that the Government will do something in this regard.

SHRI P. SHIV SHANKER: Sir, I just want to raise one or two points from the observations made by the hon. Minister. There are certain works which are our national heritage. Works which are a national heritage, should they be made a paradise of the publisher? That is the question which I would beg of the hon. Minister to kindly consider. Original

books of great men, should we sell it to the publisher, any publisher and get it published and allow him to make money out of it? As far as ordinary books are concerned, we are not concerned about them. I would like to suggest, since the hon. Minister has already promised that he is going to bring in a comprehensive Copyright Act, this is for his kind consideration that in chapter 5 of the Copyright Act of 1957, what could be done is that it could be divided into two segments and the works of eminent personalities, original works, works of national heritage etc., so far as such works are concerned they could be classified based on reasonable classification not violating Article 14 of the Constitution. In such case it will not be discriminatory, because if we set out the purpose and that purpose having been set out if we say that we are making a reasonable classification of such works then there would be no difficulty. So they could be segregated from the ordinary copyrights and if these two segments are separated, I am sure the purpose will be satisfied and works of eminence could be eternally protected.

THE VICE-CHAIRMAN (PROF. CHANDRESH P. THAKUR): Shri Sukomal Sen. I have to make a request to you. According to the original time allocation, total time for this topic was two hours and Congress had 54 minutes. Congress has practically withdrawn all its speakers...

SHRI SUKOMAL SEN (West Bengal): Why are you worrying, Sir? I will be very brief. I will just make one or two points...

THE VICE-CHAIRMAN (PROF. CHANDRESH P. THAKUR): You may continue with your speech.

SHRI SUKOMAL SEN: Sir, but you are not listening to me...

THE VICE-CHAIRMAN (PROF. CHANDRESH P. THAKUR): The Chair is supposed to be listening always. I have two ears...

SHRI SUKOMAL SEN: But you are a human being, Sir. Listening to two different persons at the same time is physiologically not possible...

SHRI S. JAIPAL REDDY: One second, Sir. I will be disturbing you

[Shri S. Jaipal Reddy] again. I am told that according to the TV monitor of Rajya Sabha, the External Affairs Minister is making a statement in Rajya Sabha at 5.30. Neither the office or we appear to know about it. What is this?...

THE VICE-CHAIRMAN (PROF. CHANDRESH P. THAKUR): We will go by the notification...

SHRI S. JAIPAL REDDY: The office does not know about it. Neither do we know about it. The revised business does not seem to have been circulated. It is a very serious matter. The office does not know so far, nobody knows about it and it is over 5.30. I do not find the Minister anywhere. This is gross mis-management of things. How can we...

THE VICE-CHAIRMAN (PROF. CHANDRESH P. THAKUR): Two hon. Ministers are listening to you and they will convey your feelings.

SHRI SUKOMAL SEN: Some previous speakers have raised many issues about the copyright. The problem is that the Government is getting another ten years for the consideration of all the aspects about preservation of copyright. Now the point is that this Bill has come because of the fact that the copyright of Tagore's works was to expire on 31st December, 1991 and that was the basis of this amendment. What I feel is that even after the extension of copyright by another ten years, the question of preserving national heritage will not be solved. It cannot be solved. There are so many eminent writers in our country who have contributed to the cultural heritage of our nation. We want to preserve them. We do not want to leave them to the commercial entrepreneurs for making profit. Tagore stands supreme among those eminent writers and that is why this Bill has been brought in Parliament. My point is, after ten years when the Copyright Act expires, what will happen? Will it be allowed to the commercial entrepreneurs to make profits? That is the main issue. Even the Visva Bharati has proposed certain via media. They have said that after ten years they do not want to preserve the copyright of Tagore. And they have proposed that some national board consisting of different academics and various institutions of

academic brilliance could take over the right to publish Tagore's works, complete, full and original Tagore's words could be published so that it could reach the common readers.

[The Vice-Chairman (Shri Bhaskar Annaji Masodkar) in the Chair].

Now after ten years, this will be given to commercial entrepreneurs. Then the Question will arise whether the readers will get the original and complete works of Tagore, as the commercial publishers will be interested only to make profits. There are some works of Tagore which are not profitable to the entrepreneurs. There are some works which the commercial entrepreneurs may feel profitable and they may publish and sell these. All these complications will arise. There are some works which are not yet published. Some letters are yet to be traced and published. Tagore's works consist of both literary and musical compositions and it is a voluminous one. For this, some via media has to be found out so that the original complete works of Tagore could be protected and it could reach the readers. It cannot be left to the commercial people. These arguments might arise in case of other eminent writers also and the commercial entrepreneurs might be interested to make profits from these works also. That is why I request the Government to think over it. What the Berne convention and the subsequent international convention have said is correct. Some countries have made some other acts also. In England, the Oxford University and the Cambridge University have the sole right to publish certain books which cannot be published by other institutions or commercial entrepreneurs. In some countries, this copyright period has been extended. Now with regard to India, what can be done to protect the national heritage and the cultural wealth? Will it be used by commercial publishers for making profit or will it be protected by some institutions so that the original work can reach the public at a cheaper rate?

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): You are not opposing it.

SHRI SUKOMAL SEN: That has to be thought of. But I am one of the

Members who have raised this issue much before through a special mention. The Chief Minister of West Bengal and not only him, but many other intellectuals also have taken up this issue. At the same time, certain intellectuals have also opposed it. The publishers *in toto* have opposed it. But there is an opinion in our country that the Government should pay proper attention to copy-right. In 1983, there was a seminar in Jabalpur University where this issue of copyright was discussed. They have made certain other discussions also like how to preserve the works of eminent authors and thus the national heritage. And they made certain observations. I need not narrate them now. I think the honourable Minister is already in the know of it or he can get the papers from the University. Many intellectuals dwelt on the subject. I request that while extending the copyright period by ten years more the Government should take the initiative to conserve the works of eminent intellectuals in various fields, of academicians, of institutions like the Sahitya Akademi, the National Book Trust, the Bangla Akademi and similar other institutions, the Government should see what can be done to protect the works of Tagore and other eminent literary figures, so that they are not left to the commercial houses for exploiting, for earning money. With these words I support the Bill.

श्री सुरेश पचौरी (मध्य प्रदेश): महोदय, क्योंकि हमारे पार्टी के माननीय सदस्यों ने अपने नाम वापस ले लिये हैं इसलिए मैं केवल इस अवसर पर मानव संसाधन विकास मंत्री जी को इस कॉपीराइट अमेंडमेंट बिल 1992 प्रस्तुत करने के लिए बधाई देना चाहूंगा। यह एक सामयिक कदम है। इस बिल के प्रस्तुत करने से न केवल हम गुरुवर खीन्द्र नाथ टैगोर की कृतियों के प्रति सम्मान व्यक्त करेंगे जिनके पब्लिकेशंस की समयावधि 31 दिसम्बर, 1991 को समाप्त हो रही है बल्कि हम अन्य साहित्यकारों के प्रति भी सम्मान व्यक्त करेंगे। इस प्रकार की व्यवस्था न केवल हमारे भारतवर्ष में हो रही है बल्कि अनेक ऐसे देश भी हैं विश्व में जिनमें इस प्रकार की व्यवस्था है जिनकी कॉपीराइट की समयावधि 50 वर्ष से ज्यादा की है। जैसे ब्राजील और स्पेन ये दो ऐसे देश हैं जिनमें इस कॉपीराइट की समयावधि 60 वर्ष की है जो अवधि अब भारत में माननीय मंत्री जी की पहले से हो रही है। यद्यपि अनेक

संस्थाएँ इस प्रकार की मांग पिछले बहुत लम्बे समय से कर रही थी जो विश्व भारती प्रकाशन से संबंधित थी। उसको मदेनजर रखते हुए मंत्री जी ने जो कदम उठाया है वह एक अच्छा कदम है और बहुत अधिक यदि हम इसकी अवधि बढ़ाते तो इससे एक बैलेंस बिगड़ जाता इंडीविजुअल और सोसाइटी के बीच में और बाद में इसको रीवाइज करना उपयुक्त नहीं होता। क्योंकि रीवाइज करते, इस अवधि को घटाने के लिए तो उससे कई प्रकार के नये विवाद उत्पन्न हो सकते हैं। इसलिए 50 से 60 वर्ष की जो अवधि बढ़ाई गई है वह एक सामयिक कदम है। और ज्यादा अवधि बढ़ाना जैसा एक माननीय सदस्य ने बताया कि यह उचित नहीं होता। हमारा जो भारतवर्ष है यह दो कन्वेंशन — एक बर्न कन्वेंशन और दूसरा यूनिवर्सल कॉपीराइट कन्वेंशन का मेम्बर भी है जिसमें यह व्यवस्था है कि 50 वर्ष की अवधि कॉपीराइट हेतु होनी चाहिए लेकिन लम्बे असें से मांगों को देखते हुए जो अवधि मंत्री महोदय ने 10 वर्ष और बढ़ाने का प्रस्ताव रखा है वह अच्छा कदम है। मंत्री जी को इसके लिए बधाई देता हूँ और इस बिल का समर्थन करता हूँ। धन्यवाद।

PROF. SAURIN BHATTACHARYA

(West Bengal): Thank you, Mr. Vice-Chairman, for the opportunity. This Bill seeks to change the Ordinance into law. The Copyright (Amendment) is thought of as a double-edged sword. There are enough reasons which may be put against the amendment, the amendment of extending the term of copyright from 50 to 60 years but in a particular case. We know the background. It was done to protect the work of Rabindranath from any unscrupulous utilisation by commercial houses. There was a very strong feeling everywhere that steps should be taken and almost at the nick of the moment — I think it was December 28, 1991 when the copyright period was to expire — these were effected through an Ordinance and that Ordinance is now going to be converted into a law.

Sir, it has been made clear that it relates exclusively to Rabindra literature, though the name is not there in the amendment, and maybe to the prospective authors whose copyright may exhaust after this. For them also perhaps, if I have understood this rightly, this amendment would apply, but not to

[Prof. Saurin Bhattacharya] others who are also very reputed writers or very famous writers, whose contribution to the cause of literature is no less. This is one aspect of the case, the other being that by this extension, the Visva-Bharati, which did much for the propagation of Rabindranath and also, at the same time, had been responsible for monopolising, so to say, in a way stood in the way of its popularisation to the extent necessary, would have this right protected for another ten years. That problem is also there. Therefore, not only Tagore, but other litterateurs also will get this benefit by these things if the copyright period is extended up to sixty years, but not in the case of those whose period did exhaust earlier. Therefore, this may be a discriminatory practice. It may help any monopoly whose work is not commensurate with the question of spreading literature, spreading the work of great authors, great composers and the like. There are both sides to it, no doubt. But, since it came in the background of a situation when the 50-years period was coming to an end, Rabindra literature would be an open book.. Without any protective measures, there was every possibility of subjecting it to various unhealthy commercial practices. At such a moment, because of the pressure of public opinion, on a request or demand, as you may call it, from the Government of West Bengal, this Ordinance was promulgated.

While supporting this measure, I would request the Government of India and the Minister of Human Resource Development through you, Sir, to see that this ten-year period is utilized to develop some specific norms so that behind the garb of this extension, great literature is not monopolised just by one institution. Though associated with the name of Tagore, associated with the name of Santiniketan, it is nevertheless a commercial organization exploiting the name of Tagore and this fact cannot be lost sight of. Therefore, the extension should not end our work. I think, with the extension, the work should be on for

setting up a framework in which even the Visva-Bharati will have to agree to further dissemination of Tagore's literature and not just for perpetuating its monopoly. Thank you Sir.

6.00 P. M.

DR. NARREDDY THULASI REDDY (Andhra Pradesh): Sir, I am in a state of ambiguity whether to support or oppose the Bill.

SOME HON. MEMBERS: Please support. Better support. (*Interruptions*)

DR. NARREDDY THULASI REDDY: Amendments which are necessary are not brought and the amendment which is not necessary is brought. No doubt, the Copyright Act, 1957, is outdated. But the present Bill is brought, keeping in view the Vishwa Bharati. To give ten more years of copyrights to Vishwa Bharati on Guru Tagore's works the present Bill is brought. Sir, many intellectuals, scholars and professors are against this extension. Even Shri Satyajit Ray, who was awarded Bharat Ratna, also opposed the extension of Copyright Act for ten years. All is not well with Vishwa Bharati. And the manner in which it has made use of copyright in recent times is not inspiring. There are persistent complaints about inefficiency. There are allegations of incomplete and incorrect translations in different production standards. So no organisation should have a monopoly on the works of statemen like Mahatma Gandhi and Guru Tagore. Authors should be given a chance to come out with new editions and present a great literature in a new light. The interests of leaders should be given priority. Free and keen competition induces publishers to produce different categories of leadership. So I request the hon. Minister to keep these points in view and come up with a comprehensive and overall Copyright Bill.

SHRI ARJUN SINGH. Sir, I am very grateful to the hon. Members for the very useful suggestions that have been made. Shri Shanker Dayal Singhji voiced certain apprehensions about the overall subject that are covered under the Copyright laws. My difficulty, Sir, at the moment is that while the comprehensive Bill is to reply to the points raised by hon.

Members regarding that Bill. This Bill is on a very, very narrow issue of extending the time. This does not mean that the points made by Shri Shanker Dayal Singhji, Salveji and other hon. Members are not important; they are very important. And all I can say at the moment is that in the comprehensive Bill we have tried to include many of the things which have been suggested. But there can still be something that is left out, and when it comes up for discussion before this August House I am sure all those lacunae will be taken care of.

Now, about the point made by Dr. Reddy just now about the complaint against Vishwa Bharati and also of Prof. Bhattacharjee about what is the relative right of people and the relative right of an author, Sir, the copyright concept itself deals with that, and always a mean is struck where the property rights of an author and the domain of the public over these rights becomes a subject-matter of the law, which is the copyright law. I am quite conscious of the fact that we should not become judges about the author's beyond a certain stage. Today for Shakespeare there is no copyright, protecting him and his works are published all over the world.

Here the short point was that while we were engaged in overhauling the entire Copyright Act, if we were able to do it before the 31st and that Act would have come to Parliament, this would have been considered along with that. The only difficulty that has arisen is because of the time factor we had to issue an Ordinance and I can assure the House that all the points mentioned by the hon. Members will find a place in the Copyright Bill that will come. And we will try our utmost to incorporate all your very valuable suggestions in that.

With these words, Sir, I request that this Bill be now passed.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): I shall now put the motion moved by Shri Arjun Singh to vote.

The question is:

"That the Bill further to amend

the Copyright Act, 1957, as passed by Lok Sabha, be taken into consideration."

The motion was adopted.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): We shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 4 were added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI ARJUN SINGH: Sir, I beg to move:

"That the Bill be passed."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI BHASKAR ANNAJI MASODKAR): We shall now take up Half-an-Hour Discussion. That appears to be the scheduled item. Shri Shankar Dayal Singh.

HALF-AN-HOUR DISCUSSION ON POINTS ARISING OUT OF ANSWER TO UNSTARRED QUESTION 1285 GIVEN ON 5TH MARCH, 1992 REGARDING THE ORDERS PENDING WITH H.E.C., RANCHI

श्री शंकर दयाल सिंह (बिहार): उपसभाध्यक्ष जी, मुझे खुशी है कि आपने आज ऐसे विषय पर आधे घंटे की चर्चा के लिए समय दिया है जिसको लेकर पिछले कई महीनों से मैं प्रयास कर रहा था। देश के सामने एक नयी औद्योगिक नीति पिछले दिनों आई और नयी औद्योगिक नीति के आते ही एक नयी विचारधारा भी देश में शुरू हो गई। आज़ादी के बाद हमने बड़े विश्वास के साथ समाजवाद को अपनाया था और देश के प्रथम प्रधानमंत्री पंडित जवाहरलाल नेहरू ने समाजवाद को सामने रख कर देश की नींव उस ढंग से डालनी शुरू की थी जिसके अन्तर्गत हमारी औद्योगिक इकाइयाँ थीं। देश में जितने भी बड़े बड़े उपक्रम सार्वजनिक क्षेत्र में स्थापित किये गये जवाहर लाल जी ने तथा उस समय जो भी हमारे देश के बड़े बड़े नेता थे, उनकी स्वीकृति भी इन्हें प्राप्त हुई। यह बात छिपी नहीं है कि जब अपने देश में बड़े बड़े उपक्रम स्थापित करने की बात शुरू में चली तो अमरीका और इंग्लैंड जैसे देशों ने भी इसके लिए हमें हतोत्साहित किया और बार बार हमारे देश के सामने यह प्रस्ताव रखा कि आप इतने बड़े बड़े

THE VICE-CHAIRMAN (SHRI SATISH AGARWAL): So, I see that the consensus in the House is that the copyright (Amendment) Bill be disposed of first. Now, Kumari Selja to move the Bill for consideration.

i

The Copyright (Amendment) Bill, 1994

THE DEPUTY MINISTER IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DEPARTMENT OF EDUCATION AND DEPARTMENT OF CULTURE) (KUMARI SELJA): Sir, before I move the Bill, I want to make just one clarification. It appears there is a printing mistake in the title of the Copyright (Second Amendment) Bill listed in today's List of Business of the Rajya Sabha against my name, insofar as the word "Second" shown therein is concerned. Therefore, the title of the Bill may kindly be read as "The Copyright (Amendment) Bill, 1994".

Sir, I beg to move:

"That the Bill further to amend the Copyright Act, 1957, as passed by the Lok Sabha, be taken into consideration."

The Question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI SATISH AGARWAL): We shall now take up clause-by-clause consideration of the Bill. There are no amendments.

Clauses 2 to 24 were added to the Bill.

Clause 1 the Enacting Formula and Mr. Raj Babar.

KUMARI SELJA: Sir, I move: "That the Bill be passed."

The question was put and the motion was adopted.

THE VICE-CHAIRMAN (SHRI SATISH AGARWAL): I thank all the Members in this House for the excellent cooperation extended to me.

KUMARI SELJA): Thank you, Sir.

THE VICE-CHAIRMAN (SHRI SATISH AGARWAL): You have to say thanks with regards. Anyway, let us take up the Special Mentions now.

SPECIAL MENTIONS

Mandrax Tablets

उपसभाध्यक्ष (श्री सतीश अग्रवाल) : मानन्दी बेन पटेल का क्या बोल रही थी ।

श्रीमती मानन्दी बेन जेठाभाई पटेल : मैं कह रही थी कि मुझे जल्दी जाना है ।

उपसभाध्यक्ष (श्री सतीश अग्रवाल) : तो फिर उतनी ही जल्दी बोलिए, आपको जितनी जल्दी जाना है ।

SHRI JAGESH DESAI (Maharashtra): Sir, everybody wants to go early.

उपसभाध्यक्ष : आपके सदन की अनुमति से मैं बोलने की इजाजत दे रहा हूँ, आप जितनी जल्दी बोलेंगी, उतनी जल्दी हो जाएगा ।

SHRI JAGESH DESAI: I will take my own time.

THE VICE-CHAIRMAN (SHRI SATISH AGARWAL): Okay, let me have the list,

श्रीमती मानन्दी जेठाभाई पटेल (गुजरात) : उपसभाध्यक्ष महोदय, मैं आपके माध्यम से एक गंभीर और खतरनाक मुद्दे की ओर सदन का ध्यान आकर्षित करना चाहती हूँ ।

[14 December, 1999] RAJYA SABHA

probe. These reservations were voiced in the Rajya Sabha when the matter was first raised. Though, subsequently, I am told that the party has officially stated that they have no objection to an inquiry being instituted. But the report has understandably hurt Dr. Manmohan Singh. I have always held Dr. Manmohan Singh in high esteem. If unwittingly, I have caused him any offence, I express regrets that this should not have happened. Thank you.

DR. BIPLAB DASGUPTA: Mr. Minister, are you holding the inquiry?

MR. CHAIRMAN: No questions on this. (*Interruptions*). * No questions on this.

THE LEADER OF THE OPPOSITION (DR. MANMOHAN SINGH): Mr. Chairman, Sir, I am very grateful to the hon. Home Minister for the statement that he has made. As far as I am concerned, that is the end of the matter. If in the heat of the moment, I had said anything during my intervention here, I am very sorry for that. It was never my intention, in any way, to hurt the feelings of the hon. Home Minister. (*Interruptions*)

MR. CHAIRMAN: No questions.

THE COPYRIGHT (AMENDMENT) BILL, 1999

मानव संसाधन विकास मंत्री, विज्ञान और प्रौद्योगिकी मंत्री तथा महासागर विकास मंत्री (डा. मुरली मनोहर जोशी) : सभापति जी, मैं प्रस्ताव करता हूँ कि प्रतिलिप्याधिकार अधिनियम, 1957 का और संशोधन करने वाले विधेयक को पुरःस्थापित करने की अनुमति दी जाए।

The question was put and the motion was adopted

डा. मुरली मनोहर जोशी : सभापति जी, मैं विधेयक को पुरःस्थापित करता हूँ।

[THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE) In the Chair]

DR. BIPLAB DASGUPTA (West Bengal): Madam, a Commission should be appointed. Some announcement should be made in this regard. (*Interruptions*).

SHRI GURUDAS DAS GUPTA (West Bengal): Madam, I would like to know from the hon. Home Minister: What is the decision of the

Government in regard to the suggestion that a Commission should be appointed to go into the causes, *reasons....(Interruptions)*.

THE VICE-CHAIRMAN (MISS SAROJ KHAPARDE): Mr. Gupta, that subject is over.

SHRI GURUDAS DAS GUPTA: How can it be?

DR. BIPLAB DASGUPTA: Madam, we want an answer.

SHRI GURUDAS DAS GUPTA: The Home Minister should reply to it. *(Interruptions)*. We want it to be clarified.

PROF. RAM GOPAL YADAV (Uttar Pradesh): We want that a Commission should be appointed to go into the matter. *(Interruptions)*.

SHRI BALWANT SINGH RAMOOWALIA (Uttar Pradesh): We would like to know it. What will the nation think of us? We have wasted a tot of time.

उपसभाध्यक्ष (कुमारी सरोज खापर्डे) : आप हाऊस में थे उस वक्त? सदन के नेता कुछ बोलना चाहते हैं, उनको बोलने दीजिए।

THE LEADER OF THE HOUSE (SHRI JASWANT SINGH): Madam, certain aspects, in response to what the hon. Home Minister has said, have been rais'ed here onthe questton whether any inquiry is warranted or not. I can assure all the hon. Members of the House that all these aspects will be examined and consklered by the Government seriously.

SHRI GURUDAS DAS GUPTA: Madam, since the Home Minister is present here, he shouM respond to it. *(Interruptions)*. Since the lfome Minister is present, he shouM respond to it.

उपसभाध्यक्ष (कुमारी सरोज खापर्डे) : मिस्टर गुरुदास दास गुप्ता, सदन के नेता के जवाब देने के बाद कुछ बचता नहीं है।

THE APPROPRIATION (NO. 4) BILL, 1999

THE MINISTER OF FINANCE (SHRI YASHWANT SINHA):
Madam, I beg to move:

**XIII LOK SABHA DEBATES, Session II (Winter Session) Wednesday, December 22,
1999/Pausa 1, 1921 (Saka)**

Type of Debate: GOVERNMENT BILL

Title: Discussion on the Copyright (Amendment) Bill, 1999. (Bill passed.)

TEXT :

15.02 hrs.

MR. CHAIRMAN (SHRI BASU DEB ACHARIA): Now let us take up Item No.18. The time allotted for this Bill is one hour.

मानव संसाधन विकास मंत्री तथा विज्ञान और प्रौद्योगिकी मंत्री (डा. मुरली मनोहर जोशी): सभापति महोदय, मैं प्रस्ताव करता हूँ: “कि प्रतिलिप्याधिकार अधिनियम, १९५७ राज्य सभा द्वारा यथापारित, में और संशोधन करने वाले विधेयक पर विचार किया जाये।”

सभापति महोदय, यह अधिनियम, १९५७ का अपने आप में बहुत अच्छा अधिनियम था। यह बहुत अच्छा काम कर रहा था लेकिन

TRIP

समझौते के पश्चात् यह आवश्यक हो गया है कि इसमें कुछ परिवर्तन किया जाये क्योंकि

WTO

और

TRIP

समझौते के मुताबिक जिस पर भारतवर्ष ने हस्ताक्षर किये हैं, यह हमारे लिये आवश्यक हो गया था कि इस कानून में कुछ संशोधन किये जायें। मुझे यह कहते हुये प्रसन्नता है कि इस कानून में जो संशोधन हैं, वे कुछ तो शाब्दिक हैं और कुछ ऐसे हैं जिनसे हमारे देश में साहित्यकारों, कलाकारों और दूरदर्शन तथा फिल्म में काम करने वाले लोगों को लाभ पहुंच रहा है।

१५०३ बजे (डा. रघुवंश प्रसाद सिंह पीठासीन हुए)

इसलिये इस अधिनियम में जितने भी संशोधन करने हैं, मैं समझता हूँ कि उन सब को आप आसानी से पास कर देंगे। इसमें एक संशोधन ऐसा है जो शाब्दिक है और जिसका अर्थ है जहाँ डॉटा वेसिस लिखा है, उसे डॉटा वेसेज़ कर दिया जाय। यह करेक्शन इसलिये आवश्यक हो गया क्योंकि परिभाषा में परिवर्तन आ गया है। इसके बाद इसके अनुच्छेद १४-वीं में संशोधन किया जा रहा है जहाँ उन कंप्यूटर कार्यक्रमों को इससे वंचित करेंगे। इसमें से हटा देंगे, अगर मूल कार्यक्रम जिसके अंदर वे कंप्यूटर कार्यक्रम लगे हुये हैं, वे उसका असोशियल पार्ट नहीं है। उदाहरण के लिये, जैसे आपने एक कार किराये पर ली। वह अपने आप में एक संयंत्र है। इसमें कंप्यूटर कार्यक्रम लगे हुये हैं, तो आपने यह कार किराये पर ली हुई होती है न कि इसमें कंप्यूटर कार्यक्रम। ऐसी स्थिति में ऐसे कार्यक्रम को हम इससे हटा देंगे। इसी तरह से जो कलाकार हैं, उनके अधिकार अभी तक २५ वर्ष के लिये थे जिन्हें बढ़ाकर ५० वर्ष तक कर दिया गया है। इसी प्रकार से जो ऐसे देश हैं, जहाँ हमारे कलाकारों और ब्राडकास्ट करने वाले संगठनों को ये अधिकार नहीं दिये जाते लेकिन हम उन्हें देते हैं, उनके बारे में हम चेष्टा करेंगे कि अगर ऐसा नहीं है तो जब तक उनकी तरफ से उन्हें राष्ट्रीय अधिकार नहीं मिलते, हम भी उन्हें राष्ट्रीय अधिकार नहीं दें।

श्री मुरली मनोहर जोशी जारी अगर वे हमें राष्ट्रीय अधिकार दे रहे हैं, राष्ट्रीय स्तर पर हमारे साथ व्यवहार कर रहे हैं तो हम भी उनके साथ वैसा ही व्यवहार करेंगे और इसके लिए हमने एक नई धारा ४० ऋजोड़ी है। इसी तरह से कंप्यूटर प्रोग्राम के डीकम्पाइलेशन के लिए

जहाँ पर जरूरत पड़ती थी, उसका स्कोप वाइडन कर दिया है, उसे बढ़ा दिया है। ये कुछ ऐसे संशोधन इसमें किये हैं जो बहुत सामान्य से हैं। एक संशोधन यह है कि जिसमें कापीराइट का अधिकार जो अभी तक ५० वर्षों तक था, वह अपने साहित्यकारों के लिए बढ़ाकर ६० वर्ष कर दिया है। इन संशोधनों में कोई ऐसी चीज नहीं है जो कलाकारों और साहित्यकारों के विरुद्ध जाती हो या हमारे अधिकारों के विरुद्ध जाती हो। इसमें किसी प्रकार का कोई ऐसा हस्ताक्षर नहीं है जो डब्ल्यू.टी.ओ. के तहत हमें नुकसान देह हो। यह एक ऐसा कानून का संशोधन है कि जो संयोग से इस देश के हित में है। इसलिए मैं ऐसा समझता हूँ कि इसे पास करते समय हमें बहुत कठिनाई नहीं होनी चाहिए। यह हमें ध्यान में रखना होगा कि हमारे ऊपर एक प्रकार का अंतरराष्ट्रीय प्रतिबंध है कि हम इन समझौतों के क्रियान्वयन के लिए इसे ३१ दिसम्बर से पहले पारित कर सकें तो अच्छा होगा। एक जनवरी, २००० से पहले हमें इन कानूनों में संशोधन करना है। इस पर हमारी पुरानी सरकारें हस्ताक्षर कर चुकी हैं और उसके तहत मैं इन कानूनों में संशोधन करना है। मैं ऐसा समझता हूँ कि यह संशोधन देश के हित में है और इसलिए मैं सदन से अनुरोध करूँगा कि इसे सर्वसम्मति से पारित करें।

MR. CHAIRMAN : Motion moved:

"That the Bill further to amend the Copyright Act, 1957, as passed by Rajya Sabha, be taken into consideration."

SHRI PRAVIN RASHTRAPAL (PATAN): Mr. Chairperson, Sir, welcoming a few amendments which the hon. Minister want to carry out in view of the WTO requirement, I want to invite his attention to the fact that while we are protecting the rights of the authors and poets etc., who are alive today, we must go back to many years in our history where famous personalities like Meera, Raidas, Kabir and Narsi Mehta have also written poems and many articles about our country and about our sanskriti. Now, it is experienced that in our own cinema field, authors are making only some changes in the songs written by our Saints and Mahatmas and giving in their own name, earning credit and money. The Government should think about protecting the rights of our own Saints and Mahatmas. While protecting the rights of present authors and sahtyakars -- extending the time limit to 50 years or 60 years is not the only solution -- we should not forget that there are many languages in our country. Suppose, an author from Kerala writes a book or a poem, he has no control over other Indian languages. The Government should have a machinery and they should see to it that once a book or a poem or something is written in one language, it should not be copied within the country. If somebody translates a book or a poem written in Malayalam, maybe, into Gujarati and gives his own name, what is the modus operandi with the Government to protect the rights of the authors in regional languages in our country?

मैं एक कविता लिख देता हूँ, उसका मुनाफा मुझे नहीं मिलता है और दुनिया भर के लोग उसका ट्रांसलेशन करते हैं।

The Government should find out a solution to this particular problem, and there should be a Central Agency which should collect the books written in all the Indian languages. If an author applies for a copyright, then that information should be fed, and the Government should exercise its control. The rights of authors should be protected. This is the only submission from my side.

SHRI ANADI SAHU (BERHAMPUR, ORISSA): Thank you, Mr. Chairman, Sir. From 1952 Berne Convention to 1995 WTO Round, as a consequence of the Uruguay Round, we have come a long way.

Sir, when we have come a long way from Bern to WTO signature in 1995, many things have taken different shapes and so the Copyright Act must also take a different shape. My hon. friends in this august House would know that copyright mostly relates to and extends up to cultural activities of the country in literature, fine arts, music, painting, dancing, drama, sculpture, architecture and the vehicles of this culture. Whatever are the vehicles of this culture are related to the Copyright Act. Over the years, many other things have been added to it. It is mentioned in Section 38 of the Copyright Act that many other things have also been added taking into consideration the availability of creative genius, like the dream merchants produced the Doordarshan episodes and such other matters had to be taken into account in the Copyright Act.

Sir, as you would know, the WTO has had three aspects. One was the General Agreement on Tariff and Trade; the second was the General Agreement on Trade in Services; and the third was the Trade Related Intellectual Property Rights (TRIPS). When we think of the Copyright Act, we mostly have to think of the TRIPS. Now, what are the matters that the TRIPS has to think about? The hon. Minister has said that the TRIPS has to take into account as to how the countries should protect the rights of the international community so far as the property rights are concerned and as to how the matter has to be settled or the disputes are to be settled. There might be some transitional agreements relating to TRIPS. These are the matters which are being taken into account at this juncture in this Bill.

Sir, in supporting this Bill, I must say that we have travelled a long way and in travelling a long way we have acquired other properties which are tangible and which are not tangible. All these aspects would have to be taken into account. The tangible properties would have to be taken into account and the intangible properties also would have to be taken into account.

Sir, the two amendments that we have had earlier, the last amendment, I think, was in 1994, where we had added some intangible properties. We had added computers earlier. But the process of computers, the data base and all other such matters relating to computers are very complicated and have been getting into a lot of developed ideas. So, when we are thinking of the Copyrights Act vis-a-vis the TRIPS agreement, we have to change it at different places so as to adjust ourselves to the requirements of the international organisations. Now, as the hon. Minister has said, some of the properties become the domain of the public after a few years. In some cases where it was 50 years, it has now become 60 years. It was 25 years in some cases, now after this amendment it would become 50 years in some cases. It has been indicated in this Amendment Bill. But we have to take into account the requirements of this country, of this society and also the people who are here. At the same time we have to think of international commitments.

Sir, that is why, a measure of safeguard has to be inducted into the Copyright Amendment Act. I think, more is not possible now because of the transitional phase. Those safeguards can come later. The immediate requirement, as has been indicated in the Bill, is regarding the data base. Only the words 'data base' has been made into plural in this Bill.

Sir, so far as the translations are concerned, I think, this TRIPS may not be of any help to the literary authors of India. There are many authors in India and as we all know, the writers in India are a poor lot and royalty also is very limited. As my predecessor has said that there is a lot of plagiarism in the fields of writing, music and even in architecture. Although we may say that there is no copying in architecture, but there is, in fact, copying in architecture as well.

So when we are thinking of any translation, we have to think of the public domain so far as India is concerned, and the persons who are associated with it must be given a little bit of help so as to see that in the international level, they are not marginalised or neglected.

Broadcasting, microfilming, litho photography and movie cinemas have come a long way in India. And, in movie cinemas, talkies, we are very adapt in copying from outside. After this Amendment, and after we have signed the TRIP Agreements, there will be a lot of difficulties for our dream merchants to cope up with the problems that they have to face. That is their way of facing the problems.

But my contention here is that we have to obey the enormous international obligations that have come to us, and we must cope up with these things. But so far as the Copyright Act itself is concerned, it is observed more in violation than in adherence. Those people who are genius, those who have some originality and write a book or create music, they do not get any sort of protection from the

Government. We have to think about them. Whenever we are thinking of an Amendment, we have to think of stringent provisions. Then, there is Civil Procedures in dealing with copyright but the punishment given is only 3 years, and Rs. 50,000 as fine. That is nothing. Although these things are not within the ambit of the Amendment that is being placed today but I would urge the Government to think that some more stringent provisions could be enforced or could be enacted so as to prevent any sort of plagiarism or any sort of copying in flagrant violation of the Copyright Act.

About the amendments which have been indicated, Clause 42(a) is a very vital amendment which has been proposed, and it requires an immediate approval of the House. It has already been approved by the Rajya Sabha, and now, it requires the approval of this House. Clause 42 would be very important because of broadcasting organizations and performances. And, it is related to the trade and properties.

So, with these few words, I support this Bill.

SHRI SWADESH CHAKRABORTY (HOWRAH): Respected Chairman, Sir, on behalf of my party, CPI(M), I stand here to oppose this Amendment. They have said that 'this Amendment to Copyright Act is a guided amendment. It is not an amendment which has been proposed by our Government'.

In the Statements of Objects and Reasons it is also written:

"India is a signatory to the Agreement on Trade Related Aspects of Intellectual Property Rights. As per Article 14 of the Agreement, the term of protection available to performers shall last at least until the end of a period for fifty years computed from the end of the calendar year in which the performance took place..."

The Copyright was for 25 years. It is very good that we extend it to 50 years or 100 years. The Copyright was for 50 years. It is very good that we extend it to 60 years. But what is the relation of the Amendment to Copyright with TRIPS so far as our Indian intellectual property is concerned? I come to the point of relation. The relation lies not in New Delhi. But the relation lies somewhere outside our country. Mr. Chairman, Sir, our respected colleagues sitting on your right and left, both of them, have surrendered to some foreign countries.

I quote from the 'Economic Times' of 4th May, 1998, New Delhi edition: "The United States has named India in Special 301 priority watch list."

We are in the watch list of the United States and we are an independent and sovereign country feeling pride of everything in us. So, a foreign country is bold enough to declare us as a country in the watch list. In continuation of the above quotation, it is stated as follows and I quote : "The Clinton administration has placed 13 other countries and the European Union on the list, US Trade representative Charlene Barshefsky said yesterday. India's Patent and Trade Mark laws continue to fall well short of providing adequate and effective protection."

To whom our laws give protection? Our law has to protect our country. Our law does not need to protect the US interests. So, US Trade representative has the audacity, I would rather say, to state that Indian law falls well short of providing adequate and effective protection .

"India has enacted modern Copyright legislation, but improvements continue to be necessary in the enforcement area."

The Amendment Bill by our HRD Minister is not a proposal from his Department or his own concern. It is a proposal which is guided by US State representative Chairman Barshefsky. And what is the result? He has directed us in the year, 1998 to move the amendment of Copyright for the interest of

the US industries or other trading communities.

There was a convention in New Delhi on this Copyright Act. While inaugurating the convention, Justice S. B. Wad (retired) said: -

"The world has gone through three ages i.e. of wisdom, valour and commerce. In the present business-oriented age, even the field of knowledge is dominated by Goddess Lakshmi who has taken it over from her counterpart Goddess Saraswati, the imparters of knowledge and arts."

My respected HRD Minister is a worshipper of Goddess Saraswati. Why should he go for worshipping Goddess Lakshmi? He is an educated and respected man. Where lies the relation? Apparently it seems that this Copyright Amendment is for the interest of my own country. But I feel as a patriot, as a Bengali, as a proud Indian, that this Copyright Amendment Act is against the interest of my country because it is guided by US State Administration and bodies to the conditions of WTO. Have they been able to do it in all other countries?

Has the United States been able to promulgate their Acts and rules forcing other countries into the WTO list? ... (Interruptions)

What is the position with regard to other countries? I now quote from The Financial Express dated the 6th May, 1996 (New Delhi Edition):

"The White House and business groups are gearing up for a major push this month to renew China's favourable trading status, even as Washington proposes to impose sanctions in a dispute over copyright piracy."

In the name of copyright piracy, they wanted to put conditions on China. But China refused to budge and Washington had to give the MFN status in relation to trade to China. When China has the courage and boldness to say, 'We are not going to abide by your dictation', our Government and our respected friends sitting on your right and left have signed off the sovereignty and integrity of the country. That is why I stand to object to this amendment.

The real purpose of this amendment is not to protect the interest of our country or our writers or our performers or our cultural organizations. It has been written clearly in clause 42 (a), 'If it appears to the Central Government that a foreign country does not give or has not undertaken to give adequate protection to rights of broadcasting organizations or performers ..., the Government shall not give the necessary protection.' In the same page, clause 40 (a) (5) states, 'In the case of ownership of rights of broadcasting organizations and performers the provisions of Chapter VIII shall apply with such exceptions and modifications as the Central Government may, having regard to the law of the foreign country, consider necessary.'

[\[NEXT PAGE\]](#)

So, why are we thinking of imposing some control over the foreign agencies who want to pirate our intellectual property? We are putting in the Act that we are to abide by the Acts of the foreign countries. Is there not a basic contradiction? The cat is now out of the bag. What is the real intention of this amendment?

I stand to oppose it. We oppose it but we know that our opposition will not stand in this House. We know that with their brute majority, my respected colleagues sitting on your left and right, will pass it by vote. But I appeal to the patriotism in all the Indians present here. I appeal to the nationality of all Indians present here to think twice, before they go by the dictum of their Parties, whether we will save the intellectual integrity and sovereignty of our country or not.

We have signed off many things.

In the name of WTO and such other things, we have surrendered our economy our underground treasurers. The point is, our intellectuals, right from Mira Bai, Rabindra Nath Tagore and Satyajit Ray, have produced quality literature, cinema and films of international standard. Now, in the garb of protecting the Indian interest, the Government seeks to bring an amendment which will be in the interest of US traders and US industry. That is why, we oppose it. I feel, if you compare any Indian product for its value and quality, it will always be richer than its counter-product in foreign countries. I will conclude my speech with a quotation from great Rabindra Nath Tagore:

JANIA TOR DHAN RATON ACHEY KINA RANIR MATON

SHUDHU JANI MOR ANGO JUDAY GELA TOMAR KOLER KACHAY .

"I do not know whether you have the treasures of an empress, but I feel relieved when I lie on your lap."

I am proud, we are born in this country. I am proud to be born in mother India. I am proud to be born as an Indian. I am proud to die as an Indian, an Indian of an independent India and not the India which my friends on your right or left want to make it. With these words, I conclude my speech.

SHRI P.H. PANDIYAN (TIRUNELVELI): I will make a brief submission about the Copyright (Amendment) Bill, 1999.

Sir, section 40 of the Amendment Bill aims at protecting the broadcasting organisation and performers from foreign country. We are benefitted by the broadcasting organisation and the performers. What Copyright are we going to impose on our organisation? How either our performers or the films are being protected from exhibited in a broadcasting organisation outside the world? It aims at protecting the broadcasting corporation and performers as if they have performed in India. It is in respect of the territorial jurisdiction or the global jurisdiction. No doubt, it aims at the globalisation of the broadcasting organisation and the performers but it shall apply to broadcasting organisations whose headquarters is situated in a country to which the order relates or the broadcast was transmitted from a transmitter situated in a country to which the order relates as if the headquarters of such organisation were situated in India or such broadcast were made from India.

This creates a doubt in our mind. It is our feeling that our films after being directed and produced by our Indian Directors and Producers, are first transported or exported to foreign country and the first viewers of our films will either be in the Gulf, Singapore or other Asian countries. We are not able to protect our producers, directors and artists. The market in India falls down because before coming here our films are being exhibited in foreign countries.

It is being video-taped; it is being sold in the market there; it is also being imported into India. Our films have been transported to foreign countries, video-taped and they are coming back as if they have been produced in those countries. Where is the protection for this kind of infringement of right? If it is a local Copyright violation, Section 40 of the principal Act will govern it. But there is a flagrant violation, there is a usual violation and there is an ordinary violation in today's Indian film industry.

Section 42A says:

"If it appears to the Central Government that a foreign country does not give or has not undertaken to give adequate protection to rights of broadcasting organisations or performers, the Central Government may, by order published in the Official Gazette, direct that such of the provisions of this Act as confer right to broadcasting organisations or performers, as the case may be, shall not apply to broadcasting organisations or performers..."

This provision will not have local relevance. No doubt, it is to protect the Intellectual Property Rights. No doubt, India is a party to WTO. No doubt, right from 1957 this Copyright Act has not protected the broadcasting organisations and performers. But, after the signing of the WTO Agreement, will it protect the Indian performers and the Indian broadcasting corporations? Normally, before we get our news through AIR, people are able to get the news from BBC. Before the telecasting is done in the local TV, foreign TVs collect and disseminate information. So, as such this Bill is aimed at protecting the rights of the broadcasting organisations. Though it is a welcome measure, though it is an advance measure, though it is a needed measure today, there should be an enforcement mechanism to protect the Indian interest in the broadcasting organisation.

Yet another thing is, yesterday only we deliberated on the Prasar Bharati Act as to what are its shortcomings, whether it should be there at all, etc. In the same way, we have an autonomous corporation that we needed. We want an autonomous corporation. Are the broadcasting organisations in those foreign countries independent themselves? Are they subjected to Government control? Do they belong to individuals? In Malaysia and Singapore the position is totally different. Some TVs take films here; they go to Philippines or Singapore and telecast them from that place. So, the law of that country will not apply to them. The local laws will apply to these broadcasting corporations. So, I appeal to the Minister for Human Resource Development - it needs no human resource - to look into this aspect.

Sections 40A and 42A are inserted to honour our commitment at WTO. It is beneficial to the nation, I know. But, whether this amendment is going to protect our future generation, the future of our country for another 25 years, is the big question. You have signed it for 50 years. From twenty-five years, the words 'fifty years' shall be substituted -- amendment No.38. Within twenty-five years where are we? What is the fate of our country?

What is the protection that we are going to get from other countries? So, I appeal to the Government - the Minister is here - to put certain safeguards. We have not moved any amendment because WTO Agreement is there. We are not going to oppose it. We are not against the Agreement. We want the Agreement and those amendments. We want India to be developed. We want India to be a powerful nation and to compete with other countries. But these safeguards should have been incorporated in Sections 40 (a) and 42 (a).

So, I appeal to the Minister to protect our Indian broadcasting agencies, to protect our Indian film industry, to protect our Indian performing artistes, Indian artists and Indian culture, not to be exploited by any other foreign country and not to be benefited by those countries. In whatever we do, we should eat the cake. We are not here to make the pound-cake and they are not there to eat the cake. So, I

appeal the Minister to incorporate these suggestions or at least amend the Statement of Objects and Reasons and protect the nation from violation of copyright by any other foreign broadcasting corporation or agency.

With these words, I support the Bill as it is in the interest of the country and as we also want to go on a global line.

श्री हरीभाऊ शंकर महाले (मालेगांव) : सभापति महोदय, आपने मुझे बोलने का समय दिया, उसके लिए मैं आपका आभारी हूँ। आदमी सिर्फ अनाज से जिन्दा नहीं रहता। उसके लिए संगीत, नृत्य और वाचन भी बहुत जरूरी है। महाराष्ट्र में दानेश्वर नाम के कवि थे। इन्होंने नासिक में श्री कृष्णराज अग्रज एक कवि थे। मैं मराठी में उनकी कविता सुनाता हूँ। उन्होंने कहा -

“जा श्वासानु वायुसंगे,

ओलाढूनि भिंत,

अन्न आइला कड़वा आमची,

हृदयाती लखंत,

सांगावे की तुसी चवाड़े ह्या अंधारात,

माते तुला करती आखिच्या,

प्राणीपात।”

१५४२ बजे (श्री पी.एच.पांडेयन पीठासीन हुए)

उन्होंने कहा था इंद्रजीत श्रृंखला दीवार है, उसे तोड़ दीजिए और बोल दीजिए कि हम जिन्दा रहने तक लड़ेंगे। ऐसे-ऐसे कवि हुए हैं। बेलाबेन नाम के एक महानुभाव थे। राणा प्रताप सिंह की शरण में सब लोग गए लेकिन वे नहीं गए क्योंकि उनके पास एक गाय थी। उन्होंने उसे जोर-जोर से कहा - राणा जी, राणा जी, अकबर के पास सलाम करने नहीं जाना। भारत में ऐसे अच्छे कवि थे, गायक थे, नृत्यकार थे। इस बारे में सोचना चाहिए। मुझसे पहले तीन-चार माननीय सदस्यों ने बहुत अच्छी बातें बताई हैं। मैं इस विधेयक का समर्थन करने के लिए खड़ा नहीं हुआ हूँ, विरोध करने के लिए खड़ा हुआ हूँ। ऐसा लगता है कि यह विधेयक भारत की असली संस्कृति को बिगाड़ने वाला है। मेरा इतना ही कहना है कि ग्राम विभाग में अभी भी अच्छे-अच्छे लोग हैं। महाराष्ट्र राज्य में उनको सुविधा दे दी है। इस विल में उनको सुविधा देने के बारे में आपने सोचा है, यह बात सच है। लेकिन गांवों में जो कवि, नृत्यकार हैं, उनको भी संगठित करें और सुरक्षा प्रदान करें, यह मेरी प्रार्थना है। मैं इस विधेयक का विरोध करता हूँ।

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : सभापति महोदय, माननीय मंत्री जी ने विधेयक प्रस्तुत करते वक्त यह दावा किया कि पहले २५ वर्ष कापीराइट की अवधि थी, अब ये उसको ५० वर्ष कर रहे हैं। इससे ऐसा लगता है कि अचानक इनके हृदय में लेखकों के प्रति या यहाँ के कलाकारों के प्रति सहानुभूति या बड़ा भारी समर्थन उमड़ आया है, लेकिन ऐसा नहीं है।

मुझे चिन्ता है और मैं बोलने के लिए उत्सुक नहीं था, लेकिन माननीय मानव संसाधन विकास मंत्री डा. मुरली मनोहर जोशी जी की डंकल प्रस्ताव और डब्ल्यू.टी.ओ. के खिलाफ जितने बयान हैं, मैं रिकार्ड तो नहीं लाया हूँ, नहीं तो मैं सब पढ़ देता।

... (व्यवधान)

डा. मुरली मनोहर जोशी : हम कहते हैं कि उसे जरूर पढ़िये।

डॉ. रघुवंश प्रसाद सिंह : हम रिकार्ड नहीं लाये, लेकिन हम आपको याद करा देते हैं कि इनका उससे भारी विरोध था। अभी जो सरकार में मंत्री हैं - जोशी जी और जार्ज साहब - इन दोनों का भारी विरोध था, डब्ल्यू.टी.ओ. और देश के इंटरनेट लोगो, काबिल लोगो,

अर्थशास्त्रियों, दिमाग वाले लोगों, बड़े माथे वाले लोगों के लिए और सब लोग कहते थे कि डब्ल्यू.टी.ओ. आयेगा तो देश का बड़ा भारी नुकसान होगा।

इसमें ट्रिप्स है, ट्रेड रिलेटेड इंटरलैक्चुअल प्रापर्टी राइट, ट्रिप्स है, ट्रेड रिलेटेड इन्वेस्टमेंट मैजर्स और गैट्स है, जनरल एग्रीमेंट ऑन ट्रेड इन सर्विसेज। उद्देश्य में ही इन्होंने कहा कि डब्ल्यू.टी.ओ. के एग्रीमेंट के खंड १४ के मुताबिक, उसकी प्रेरणा से, उसके दबाव से यह विधेयक आया है तो इस तरह के विधेयक का हम कैसे समर्थन कर सकते हैं। इन्होंने यह दावा नहीं किया कि हम अपनी आजादी और अपने विचार से और ऊंची सोच से इसको लागू कर रहे हैं। ये इसको डब्ल्यू.टी.ओ. के एग्रीमेंट के मुताबिक लाये हैं, जिस डब्ल्यू.टी.ओ. की ये खिलाफत करते रहे हैं और कहते रहे कि यह हमारे सामने खतरा है।

ट्रेड रिलेटेड इंटरलैक्चुअल प्रापर्टी राइट्स में पेटेंट कानून के मंत्री मारन साहब बैठे हुए हैं - ये सिएटल में विरोध करके आये हैं, लेकिन ये फिर भी ट्रेड मार्क और कापीराइट का कानून लाएंगे। यह सब डब्ल्यू.टी.ओ. के हिसाब से ही हो रहा है। आज ये बड़े भारी कलाकारों के हितैषी हो रहे हैं।

हमारे यहां तो बड़े-बड़े कलाकार हुए हैं। महाकवि कालिदास ने 'उत्तमिष्ठान शाकुन्तलम्' 'उरध्ववंशम्' जैसे महाकाव्य की रचना की। जो विद्वान लोग हैं, देखते-पढ़ते हैं, वे कहते हैं कि शैक्सपियर ने जो नाटक और रचनाएं लिखी हैं, उन पर कालिदास की छाप है। फिर भी कालिदास की ऊंचाई तक शैक्सपियर पहुंच पाये कि नहीं पहुंच पाये, इस पर मतभेद है। महाकवि तुलसीदास जी रामचरित मानस, महाभारत, गीता, रवि बाबू की गीतांजलि जो ये सब रचनाएं हुईं, क्या उस समय कापीराइट था? देश में और दुनिया में प्रचार हुआ कि कलाकारों की आप बड़ी भारी मदद करने वाले हुए हैं, इसलिए इस बिन्दु के ऊपर हमारा बड़ा भारी विरोध है। यह डब्ल्यू.टी.ओ. के मुताबिक है और हमारे देश के हित में नहीं है। उसके कहने के मुताबिक इस देश की सार्वभौम सत्ता को ये खतरे में डालने का काम कर रहे हैं। यह ये अपने मन से नहीं कर रहे होंगे। उस समय में और मंत्री पद पर आने पर दो रकम की बोली, दो रकम का चेहरा हो जाता है, यह हम देख रहे हैं और देखकर मैं आश्चर्यचकित हूं कि इस तरह से जो यहां विदेश के लोगों को सूट करे, जो बड़ा-बड़ा विकसित मुल्क है, ताकतवर मुल्क है, उसको सूट करे, उस तरह का कानून यहां बनाकर यहां हिन्दुस्तान में मानसिक गरीबी पैदा करने का, मनतोड़क, दिमागतोड़क काम ये यह विधेयक लाकर कर रहे हैं। सिर्फ यह विधेयक ही नहीं आया है, और जो डिजाइन वाला ट्रेड मार्क बिल है, भूगोल वाला बिल है, वह भी आ जायेगा।

यह सारी डब्ल्यू.टी.ओ. की साजिश है। उसका खतरा हम मामले में बढ़ रहा है। स्माल स्केल इंडस्ट्रीज वाले भी भटक रहे हैं कि विदेश से सस्ता माल यहां आ रहे हैं। नीतीश जी उस दिन विधवा विलाप कर रहे थे कि बाहर से स्कौमड मिल्क पाउडर आ रहा है, हम रोक नहीं पा रहे हैं। यहां का किसान विदेशी माल से पीड़ित हो रहा है।

श्री शंकर प्रसाद जायसवाल (वाराणसी): दूध वाला तो आपने ही १९९५-९६ में पास किया था।

MR. CHAIRMAN : Do not have direct talks. Address the Chair.

... (Interruptions)

MR. CHAIRMAN: Hon. Member cannot raise it like that.

... (Interruptions)

MR. CHAIRMAN: First, you should get permission from the Chairman.

... (Interruptions)

MR. CHAIRMAN: No, no; you cannot raise a matter in the House like that. Why should I sit here?

डा. रघुवंश प्रसाद सिंह : १९९५-९६ में नहीं आया, १९९६-९७ में नहीं आया, १९९८ में साढ़े १६ लाख टन आया। जैसे अभी गोहूँ पर आपने आयात शुल्क बढ़ाया है, इसी तरह दूध पर क्यों नहीं कर रहे हैं। मुझे आशंका है कि हो सकता है ये लोग मिल जाएं, लेकिन जो गांव का किसान है, गरीब है, मोहनत करने वाला मजदूर है, दबे हुए शोषित लोग हैं, उनके लिए हम लोग हैं, हम उनकी आवाज उठाएंगे। यह मुल्क १०० करोड़ लोगों का है। हमने पहले भी कहा था कि दुनिया का छठा हिस्सा यहां रहता है। डब्ल्यू.टी.ओ. वाले हमारे मन तोड़ने का काम करेंगे। यहां पर कहा गया कि हिन्दुस्तान अगर डब्ल्यू.टी.ओ. से निकल जाएगा तो यह देश खत्म हो जाएगा। ऐसा नहीं है, हिन्दुस्तान

को छोड़ कर डब्ल्यू.टी.ओ. भी नहीं चल सकता। इसलिए आप १०० करोड़ लोगों की भाषा बोलें। वहां जो सम्मेलन होने जा रहा है, मारन

साहब को चाहिए कि वे देश के लोगों की भाषा बोलें और उन्हें किसी से दबने की जरूरत नहीं है। हिन्दुस्तान के गरीब लोगों की रक्षा के लिए आपको कुछ करना चाहिए। लेकिन हमें पूरा भरोसा नहीं है कि ये लोग कुछ करेंगे, लगता है ये लोग वहां घुटने टेक देंगे।

मैं पायलट जी को कहना चाहता हूं कि आर्थिक मामलों को आप देखें। देश की आर्थिक नीति बड़े-बड़े पूंजीपति और धन्ना सेठ तय कर रहे हैं। अम्बानी का नाम आया, बजाज का नाम आया, इन सबको आर्थिक मामलों का मालिक इस सरकार ने बना दिया है। इतने बड़े लोग आम लोगों की क्या सुनेंगे।

श्री शंकर प्रसाद जायसवाल : दूध वाला मामला तो आप स्वीकार करेंगे कि आपके समय में आया था।

श्री राजेश पायलट (दौसा): ये सही कह रहे हैं, वह १९९८ में आया था।

... (व्यवधान)

हमारे जमाने में गोहूँ आयात की पालिसी खुली थी, लेकिन हमने किया नहीं, आपने आयात किया।

श्री शंकर प्रसाद जायसवाल : दूध का कारोबार करने वाली एजेंसियों ने दूध मंगाया, सरकार ने नहीं मंगाया।

MR. CHAIRMAN: Hon. Member, please sit down.

... (Interruptions)

MR. CHAIRMAN: I disallow it.

(Interruptions)*

MR. CHAIRMAN: This is not the procedure. Kindly address the Chair.

* Not Recorded.

डा. रघुवंश प्रसाद सिंह : मदर डेयरी सरकार के अधीन है, उसने आयात किया। उस राज में नहीं हुआ, इस राज में हुआ है। जो पूंजीपति हैं, जो मल्टी नेशनलिस्ट हैं, इनका राज आने से उनकी पौ बारह हो गई है। वह कहते हैं - सड़ियां भये कोतवाल, अब डर काहे का। धन्ना सेठ इनके राज में आगे आ रहे हैं। इससे हिन्दुस्तान के मेहनतकश, किसान और गरीब का भला नहीं होगा। मंत्री जी आप तो पुराने स्वदेशी आंदोलनकारी हैं, आपने डंकल और डब्ल्यू.टी.ओ. के खिलाफ आंदोलन किए हैं, उसको भी याद करें। कापी राइट और ट्रेड मार्क का डिजाइन, ये सब बिल डब्ल्यू.टी.ओ. के इशारे पर हो रहे हैं। हम कहना चाहते हैं कि डब्ल्यू.टी.ओ. द्वारा डिक्टेट कोई भी कानून हम यहां पास नहीं होने देंगे, उसका विरोध करेंगे। जिस भी चीज से आम हिन्दुस्तानी का और देश की अस्मिता को खतरा होगा, उसका हम डटकर विरोध करेंगे।

[\[NEXT PAGE\]](#)

1555 hrs.

मानव संसाधन विकास मंत्री, विज्ञान और प्रौद्योगिकी मंत्री तथा महासागर विकास मंत्री (डा. मुरली मनोहर जोशी): सभापति जी, मैंने बहुत ध्यान से सदन में इस विधेयक पर बहस को सुना। अभी जो माननीय सदस्य बोल रहे थे, उनमें गमों बहुत ज्यादा थी मगर प्रकाश बहुत कम था। मुझे प्रसन्नता होती कि उनमें जितनी अधिक गमों थी, उसमें कुछ हिस्सा अगर प्रकाश का भी होता तो बहस कुछ ज्यादा वजनदार होती। फेफड़े के जोर से कोई बात सच नहीं हो जाती। उसके लिए तर्क चाहिए, वजन चाहिए।

सबसे पहले मैं यह कहना चाहूंगा, जो बात यहां बताई गई कि इस विधेयक में भिन्न-भिन्न भाषाओं के अनुवाद हो जाने के कारण कापीराइट का जो उल्लंघन हो जाता है, उसका पता लेखक को नहीं चलता। अब हम उसके लिए कोशिश कर रहे हैं। हम प्रयत्न कर रहे हैं कि जो कापीराइट के कार्यालय हैं उनका कंप्यूटरीकरण करें, उनमें सारी सामग्री रखें। वैसे भी अनुवाद करने के लिए लेखक की इजाजत की जरूरत होती है। अगर किसी लेखक की इजाजत के बिना अनुवाद हुआ है तो वह कापीराइट का उल्लंघन है। अब सरकार हर लेखक को यह आश्वासन नहीं दे सकती कि उसकी पुस्तक का कोई अनुवाद करेगा तो सरकार उसे खबर देगी। ऐसा सरकार नहीं कर सकती। लेकिन सरकार इस बात का प्रबंध करेगी कि लोगों को यह पता लग जाए कि कौन-कौन सी पुस्तक किस लेखक ने लिखी है। अगर कहीं उसका अनुवाद होता है और उस अनुवाद में लेखक की इजाजत नहीं है तो उसे पता लग जाए, इतनी व्यवस्था हम कर सकते हैं। लेकिन उसके बारे में कदम तो लेखक को ही उठाना पड़ेगा, क्योंकि सम्पत्ति उसकी है।

महोदय, कापीराइट सरकार का नहीं है, वह उस लेखक का है और हम कापीराइट कार्यालय को सुदृढ़ कर रहे हैं। मैं इस बारे में विश्वास दिलाता हूँ कि इसकी कोई चिन्ता आप न करें। यह व्यवस्था की जाएगी। कापीराइट के कार्यालयों का मैंने स्वयं निरीक्षण किया था। वे जब से बने हैं तब से उनका सुधार एवं सुदृढ़ीकरण नहीं हुआ। जो कठिनाइयाँ हैं वे ठीक की जाएंगी और उसके लिए कुछ कदम उठाए जा रहे हैं।

दूसरी बात यह कही गई कि सांस्कृतिक गतिविधियों, आर्कोटेक्चर आदि में भी कापीराइट का उल्लंघन होता है। ये सवाल ऐसे हैं कि जैसे-जैसे कापीराइट का दायरा बढ़ता जाता है तो कानून उसके हिसाब से बनते जाएंगे। अगर शिकायतें आएंगी, तकलीफें होंगी तो जरूर उसके निराकरण के लिए कापीराइट के अंदर कुछ और व्यवस्था की जाएगी, लेकिन आज इसकी जरूरत नहीं है और ऐसी शिकायतें भी नहीं हैं। हाँ, अभी एक मित्र ने फिल्म इंडस्ट्री के बारे में कहा कि इस कापीराइट के कारण से हमारी फिल्म इंडस्ट्री को तकलीफ हो जाएगी - यह तो हो सकता है। अगर हम किसी दूसरे देश के अधिकारों पर प्रतिबंध लगाते हैं तो हमारे अधिकारों पर भी प्रतिबंध लगेगा, इसलिए उसके बारे में चिन्ता करने की जरूरत नहीं है। हम इस बात को देखें कि इसकी जो धारा ४२-ए है उसका अर्थ गलत समझा गया है दरअसल यही अतिरिक्त सुरक्षा हमारे देश के लेखकों को परफार्मर्स दे रहा है। ये दोतरफा है। उधर प्रतिरक्षा देगा और हमें भी प्रतिरक्षा देगा। अगर वे कापीराइट का उल्लंघन करेंगे तो वे भी दंडित किए जाएंगे, चूंकि अब बहुपक्षीय समझौते हैं, बायलेटरल नहीं हैं बल्कि मल्टीलेटरल समझौते हैं, इसमें अकेले अमेरिकी लेखक नहीं है, १३४ देश

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के सदस्य हैं और चीन जैसे बहुत से देश इसके सदस्य होना चाहते हैं, जो अभी तक

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के बाहर थे वे भी

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में शामिल होने की कोशिश कर रहे हैं। हमारे मित्र ने बहुत विरोध किया था।

... (व्यवधान)

MR. CHAIRMAN : Let the Minister conclude his speech.

डा. मुरली मनोहर जोशी : चीन उसके अंदर जाने की कोशिश कर रहा है।

... (व्यवधान)

एक बात उठाई गई कि हमने इसका विरोध किया था, हां, जरूर किया था। मुझे अपने सारे भाषणा याद हैं और जिस समय यह विरोध हो रहा था उस समय मैं सारे देश से कह रहा था कि इसे मत मानो, लेकिन जब देश ने मान लिया, जब सरकार ने संधि कर ली, हस्ताक्षर कर दिए तो यह बोझ देश के ऊपर आ गया।

द्वारा जारी

16.00 hrs.

अब आप इस से यह नहीं कह सकते चूंकि आपने विरोध किया था और आज इस देश ने अंतरराष्ट्रीय समझौता कर लिया और अब उस समझौते से मुक्त जायें। अगर संसद इस बात को तय कर दे कि इससे निकल जाना है तो अलग स्थिति होगी। लेकिन आज जो स्थिति है, आप उस समझौते का अंग हैं, चाहें या न चाहें, मानें या न मानें। यह बात कहना तो बहुत आसान है कि

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का विरोध किया जाये लेकिन अब उसका समय निकल गया है। हम कर रहे थे लेकिन असफल हुये और देश ने उसको मान लिया, हम क्या करें? सब ने मान भी लिया। अब तो स्थिति को आगे बढ़ाने की जरूरत है। अब जरूरत इस बात की है कि इसका लाभ कैसे उठाया जाये जिससे कि देश को कम से कम नुकसान हो। मैं माननीय सांसद डा. रघुवंश प्रसाद सिंह को बताना चाहता हूं कि जब तक यह सरकार है, भारत के हितों पर कोई आघात नहीं कर सकता, कोई भारत को खरीद नहीं सकता। मारन साहब यहां बैठे हुये हैं, उन्होंने सीएटल में सरकार का क्या रुखा लिया। मैं भी उस सरकार में बैठा हूं, जॉर्ज साहब भी इसी सरकार में हैं तो निश्चय ही भारत का दृष्टिकोण लेंगे। यह पहली बार हुआ है कि सरकार ने इतनी मजबूती के साथ सीएटल में अपना पक्ष रखा। दुनिया के तमाम देशों ने इसकी सराहना की और दुनिया के तमाम देश हमारे साथ आये। यहां आप गंभीर से चाहें जो कहें लेकिन हमारे मारन साहब ने नरमी और गरमी दोनों तरह से अपना पक्ष रखा। मैं आपको बताना चाहता हूं कि आज की परिस्थिति में विश्व की अर्थव्यवस्था बड़ी जटिल है जिसमें न केवल अपने देश को निकालना है बल्कि दुनिया के दूसरे देशों को भी निकालना है। अगर किसी को संदेह है कि यह कानून हमने दुनिया के किसी दूसरे देश के कहने पर बनाया है तो इससे अधिक गलतफहमी कोई नहीं हो सकती।

सभापति महोदय, उद्देश्य में लिखा जाता है कि हम यह कानून आज क्यों ला रहे हैं। इसमें कोई शक नहीं कि जो समझौता बौद्धिक अधिकार से हुआ है, जो समझौता

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से हुआ है, उसकी कुछ अनिवार्यतायें हैं। अगर उन तारीखों में नहीं जायेंगे तो आपके ऊपर अनेक प्रकार के प्रतिबंध लगेंगे, अनेक प्रकार की कठिनाइयां आयेंगी। आपके ऊपर व्यापारिक दृष्टि से और कठिनाइयां बढ़ने की संभावना है। इसलिये आपको यह निश्चय करना पड़ेगा और वह निश्चय यह होगा कि आप उस कानून में ऐसा संशोधन करें और साथ साथ आपकी जो अंतरराष्ट्रीय प्रतिज्ञायें हैं, अंतरराष्ट्रीय समझौते हैं, उनका भी पालन करें। अभी यहां कहा गया कि यह देश हित में नहीं है और इसका विरोध इसलिये किया जा रहा है कि यह उद्देश्य में लिखा हुआ है कि

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के कम्प्लाइंस में है। यह भी कहा गया कि अमरीका के किसी अधिकारी ने यह बयान दिया कि

India is on the watchlist.

जब हमने परमाणु विस्फोट किया, तब भी हम वाचलिस्ट में रहे। इंडिया तो वाचलिस्ट पर है लेकिन इसका यह अर्थ नहीं कि हम उनसे दबकर कोई काम कर रहे हैं।

हमें बहुत धमकियां दी गई थीं। यह भी कहा गया था कि आपने परमाणु बम बना लिया, हम सैक्शनस लगा देंगे, हम आपके वैज्ञानिकों को बाहर कर देंगे। उस समय इस सदन में मैंने कहा था कि यदि हमारे विज्ञान और टेक्नालॉजी पर सैक्शनस लगाते हैं, अगर किसी वैज्ञानिक

को बाहर करते हैं तो मैं अपने यहां सब वैज्ञानिकों को पूरी व्यवस्था दूंगा, उन्हें सुरक्षा दूंगा, नौकरियां दूंगा, प्रयोगशालाओं में काम करने के लिये पूरी सुविधाएं दूंगा। मुझे इस सदन को यह बताते हुये खुशी हो रही है कि केवल एक वैज्ञानिक को छोड़कर बाकी बाहर से भारत नहीं आये और वह भी इसलिये आया क्योंकि उनका टर्म खत्म हो गया था। आज अमरीका में हिम्मत नहीं कि वह हमारे वैज्ञानिकों को वहां से बाहर निकाल सके और दुनिया का कोई भी देश बाहर नहीं निकाल सकता। हमारे वैज्ञानिक आज जिस जगह हैं, वे किसी के रहमों-करम पर नहीं हैं। आज विदेशों से वैज्ञानिक मोरे पास आते हैं और कहते हैं कि हम आपके साथ करार करने के लिये तैयार हैं। हम आपकी प्रयोगशालाओं में आपस में लेन देन करने के लिये तैयार हैं। अपने वैज्ञानिकों को काम करने के लिये यहां भोजना चाहते हैं और एक्सचेंज करना चाहते हैं।

सभापति महोदय, आज परिस्थिति बदल रही है और हम बदलकर दिखा देंगे कि

आने वाली शताब्दी में इस देश की छवि ऐसी होगी जिसमें देश का आत्म सम्मान ऐसा होगा जैसा पहले कभी न था - यह मैं आपको वचन देता हूं। श्री वाजपेयी और हमारे एन.डी.ए. की तरफ से ऐसे प्रयत्न हो रहे हैं जिसका नतीजा आपको देखने को मिलेगा।

हम इस तरह से नहीं बदलते हैं। अभी एक माननीय सदस्य ने कहा कि हम दूसरों के दबाव में ऐसा कर रहे हैं, दूसरों को देखकर कर रहे हैं या दूसरों की नकल कर रहे हैं - यह हमारी आदत नहीं है। यह उन लोगों की आदत है जिन्होंने रातों-रात जो कालोनियल वार था, उसे पीपुल्स वार में बदल दिया। अचानक एक दिन सुनाई दिया कि कम्युनिस्ट पार्टी ऑफ इंडिया जो अभी तक इस देश की कुछ ताकतों का साथ दे रही थी, अंग्रेजों का विरोध कर रही थी, अचानक अंग्रेजों के पक्ष में हो गई। तब वे नेताजी सुभाष चंद्र बोस को तोजो का कुत्ता कहा करते थे, उसे याद करने की जरूरत है। ... (व्यवधान) उन्हें बात समझनी चाहिए कि जो रूस को देखकर हिंदुस्तान में सारी बातें किया करते थे। एक कामरेड उस वक्त छाता खोले हुए शामियाने के नीचे बैठा हुआ था तो उनसे किसी ने पूछा कि भाई साहब आपने छाता क्यों खोल रखा है, आप तो शामियाने के नीचे हैं। वे बोले ठ

Don't you know, it is raining in Moscow?'

जब मास्को में बारिश होती थी तो ये लोग हिंदुस्तान में छाता खोलते थे। उन लोगों की यह मानसिकता हो सकती है कि दुनिया के दूसरे देशों को देखकर कोई काम करता हो। यह सरकार और इसके सहयोगी भारत की जमीन को देखकर काम करते हैं, भारत की संस्कृति को देखकर काम करते हैं और उसे बचाने के लिए प्रतिबद्ध है। मैं बताना चाहता हूं

... (व्यवधान)

आप कोई चिंता न करें। मुझे बताया गया कि मीर, मीरा, कबीर, सूर और टैगोर इन सबके बारे में संरक्षण होना चाहिए

... (व्यवधान)

श्री सी.के.जाफर शरीफ (बंगलौर उत्तर) : मैं एक छोटा सा क्लेरिफिकेशन चाहता हूं।

DR. MURLI MANOHAR JOSHI: I am not yielding.

MR. CHAIRMAN : Shri C.K. Jaffer Sharief, please sit down. He is not yielding.

SHRI C.K. JAFFER SHARIEF (BANGALORE NORTH): Mr. Chairman, when you were there, they were yielding to you.

MR. CHAIRMAN: That is a different thing.

DR. MURLI MANOHAR JOSHI: I am not yielding.

SHRI C.K. JAFFER SHARIEF : Why?

DR. MURLI MANOHAN JOSHI: That is my right. At the moment, I am not yielding.

MR. CHAIRMAN : Shri C.K. Jaffer Sharief, please sit down. He is not yielding. After the reply is over, you can seek clarification?

SHRI C.K. JAFFER SHARIEF (BANGALORE NORTH): After the reply, what will be the use of it? It is relevant only now... (Interruptions)...He has said that a large number of people from other countries are coming here to share our knowledge, and the country has reached a stage that it need not depend on others. Is it the result of the tapassya of all these years or just three months after he took over?

DR. MURLI MANOHAR JOSHI: Yes, of course, it is the contribution of every Government, it is the contribution of people of India that now we have reached this stage.

आपको इतनी परेशानी क्यों हो रही है ?

मेजर जनरल (सेवानिवृत्त) भुवन चन्द्र खण्डूरी (गढ़वाला) : जाफर शरीफ साहब आपको इन्फॉरियरटी कॉम्प्लैक्स क्यों हो रहा है ?

डा.मुरली मनोहर जोशी: आप ऐसा क्यों समझ रहे हैं कि इसमें आपका कंट्रीव्यूशन नहीं है। पहला एटम बम तो मिसेज गांधी के जमाने में फोड़ा गया था। क्या बात है। आपको मालूम होना चाहिए

... (व्यवधान)

श्री राजेश पायलट (दौसा) : किस सरकार ने आज तक देश के हित में फैसले किये, वह जोशी जी ने कह दिया, जो कि उन्हें नहीं कहना चाहिए था। जो भी सरकार में रहे हैं, सबने देश हित सर्वोपरि रखा है। चाहे कोई भी रहा हो

... (व्यवधान)

डा.मुरली मनोहर जोशी: सभापति महोदय, मैं याद दिलाना चाहता हूँ कि स्वतंत्रता की ५०वीं वर्षगांठ पर मैंने एक फिल्म बनाई थी जिसमें पंडित जवाहर लाल नेहरू से लेकर आज तक देश के सारे प्रधान मंत्रियों के योगदान को दिखाया था। इसलिए आप मेरे ऊपर यह आरोप नहीं लगा सकते। मैं अन्य सरकारों के योगदान की बात कर रहा था, अभी तक जो सरकारें रही हैं

... (व्यवधान)

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): It is not that he has done some favour. It is the part of the history... (Interruptions)

MR. CHAIRMAN: Hon. Member, please sit down.

... (Interruptions)

MR. CHAIRMAN: Please confine to the Copyright Bill.

... (Interruptions)

MR. CHAIRMAN: Hon. Member, please sit down. Some are copyrights of the Congress and some are the copyrights of the BJP. That is all.

डा.मुरली मनोहर जोशी: दासमुन्शी जी, ध्यानपूर्वक सुनिये, लेकिन जब आपकी सरकारें होती हैं, तब आप दूसरी सरकारों को बिल्कुल काटकर रख देते हैं। उनकी बात भी नहीं सुनना चाहते हैं, उनकी तरफ देखना भी नहीं चाहते हैं।

... (व्यवधान)

इसकी तरफ भी ध्यान दीजिए। हमने यह तय किया है कि कापीराइट की सहकारी समितियों को वित्तीय सहायता देंगे। जिससे सामान्य लेखकों के अधिकार सुरक्षित हो सकें। इस कानून में जो संशोधन किया जा रहा है वह अंतरराष्ट्रीय स्तर पर हमारे कानून ठीक हो जाएं, उस नाते से ठीक किया जा रहा है। मैं आपको यह विश्वास दिलाना चाहता हूँ कि यह अकेला ऐसा विधेयक इधर आया होगा जिसमें कोई

ऐसी बात नहीं है जो भारत के हितों पर कहीं से आघात करती हो। किसी और विधेयक में आप कह सकते हैं कि यहाँ थोड़ी सी कमी रह गई। लेकिन इसमें आप देखेंगे कि कहीं कोई कमी नहीं है। हर एक क्षेत्र को हमने इसमें कंसीडर किया है। इसलिए मैं ऐसा समझता हूँ कि सदन सर्वसम्मति से इस विधेयक को पास करेगा और कलाकारों, निर्माताओं और लेखकों के अधिकारों का संरक्षण करने के लिए और अंतरराष्ट्रीय स्तर पर हमारे कानून की मान्यता रखते हुए, जिससे कि डिस्प्यूट्स न हों,

क्योंकि झगड़े होने पर फिर जो प्रक्रिया होती है, उसमें सामान्य लेखक के लिए ब्रडी कठिनाई आती है। वह इन मामलों में लड़ नहीं सकेगा क्योंकि हमारा लेखक वैसे ही कमजोर है। इसलिए यह कानून इस दृष्टि से बना है, अंतरराष्ट्रीय समझौतों को मान्य करने के लिए भी बना है और देश के कलाकारों, साहित्यकारों के हित में भी बना है। इसलिए मेरा आपसे अनुरोध है कि आप इसे सर्वसम्मति से पास करें।

MR. CHAIRMAN : The question is :

"That the Bill further to amend the Copyright Act, 1957, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. CHAIRMAN: The House will now take up clause by clause consideration of the Bill.

The question is :

"That clauses 2 to 7 stand part of the Bill."

The motion was adopted.

Clauses 2 to 7 were added to the Bill.

Clause 1, the Enacting Formula and the Long Title were added to the Bill.

डा. मुरली मनोहर जोशी: सभापति महोदय, मैं प्रस्ताव करता हूँ:

"कि विधेयक पारित किया जाये।"

MR. CHAIRMAN : The question is :

"That the Bill be passed."

The motion was adopted.

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